BS"D
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Potomac Torah Study Center

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NOTE: Devrei Torah presented weekly in Loving Memory of Rabbi Leonard S. Cahan z"l, Rabbi Emeritus of Congregation Har Shalom, who started me on my road to learning 50 years ago and was our family Rebbe and close friend until his untimely death.

Devrei Torah are now Available for Download (normally by noon on Fridays) from www.PotomacTorah.org. Thanks to Bill Landau for hosting the Devrei Torah.

In writing my weekly introduction, I try to tie my thoughts to some new insight that I have not mentioned in previous years. For Mishpatim, this task is especially difficult – not only because of what I have written before, but also because writing on Holocaust Remembrance Day colors my thoughts. The most culturally advanced country of the time, the culture that produced Mozart and Beethoven (and many other great musicians, writers, and scientists), descended to monsters who tried to destroy everyone who did not meet their narrow definitions of "best" or "acceptable." The Nazis treated the strangers and disadvantaged among them (and in nearby countries) worse than they would have treated savage beasts or vermin.

Today the United Nations, established to seek a better world, devotes considerable resources to demonizing Israel, with the cooperation of a large majority of countries (primarily nations where dictators deny their citizens political freedom). Meanwhile, anti-Semitism is alive with even the traditionally safest solidly Jewish communities seeing ever more frequent personal attacks. Inter-personal relations also seem filled with anger and hatred, as one can see looking at the strong feelings of political leaders and their followers in our country.

The Devrei Torah that I have selected for this Shabbat respond with the message of Mishpatim, the first parsha in the Torah devoted entirely to laws (as opposed to narrative). The 53 mitzvot in Mishpatim translate the Aseret Dibrot (Ten Statements) into specific laws, many taken from episodes from the lives of the Avot, that put the Statements into concrete examples of human behavior. Rabbi Mordechai Rhine, however, observes that sometimes we need more than the specific laws to illustrate the Aseret Dibrot. As Rabbi Rhine explains, we must include and focus on human dignity to accompany the specific laws to carry out the lessons from Har Sinai.

One reaction to the Aseret Dibrot is that these laws are obvious and second nature. Rabbi Marc Angel reminds us that when some of B'Nai Yisrael had this reaction, Hashem called the people back and insisted that each person must hear the words. Even today, we must all stand and listen each year to hear the Statements again (in Yitro and also in Vaetchanan).

Chabad Rabbis remind us that chesed, or kindness, is the basic principle of our religion. We see chesed as the source even of a basic law such as not mixing milk and meat. Torah law also requires that we seek a cure for illness, both physical and spiritual, for ourselves and for others. This requirement is also part of the principle of chesed.

Rabbi Jonathan Sacks, z"l, reminds us that the disadvantaged members of society do not always have a way to appeal when they suffer, especially in a society that prevents its citizens from political freedom. In such cases, Hashem reminds us that He will hear their cries and punish those inflicting the suffering.

In honor of Holocaust Remembrance Day, I invite you to a special event. Dr. Michael Matsas has just completed a second edition of his definitive history of the Nazi's tragic destruction of nearly 90 percent of the Jewish population of Greece. His book, *The Illusion of Safety: The Story of the Greek Jews During the Second World War,* (Vrahori Books, Potomac, MD, 2021) is available from various on line sources. The National Arts Club invites our community to register for and listen to a free Zoom interview Monday, February 7, at 6 p.m., with Dr. Matsas, discussing his book (which I found both fascinating and a very important addition to Holocaust history). To register or get more information, go to:

https://www.nationalartsclub.org/default.aspx?p=.NETEventView&ID=3865271&qfilter=&title=&type=0&ssid=323204&chgs=

I was born after the horrors of World War II, although the war affected all my friends and their families. My beloved Rebbe, Rabbi Leonard Cahan, z"l, remembered the horrible stories of the war years, and these lessons affected him, his life, and his lessons to his congregants. Now, 80 years after the war, the effects of the period still affect our world and lives. May the lessons of the Torah, and especially of Mishpatim, start making the world a better place for our children and grandchildren.

Special Mazel-Tov to our close friends Jon and Jen, and family, on the bris on Wednesday of their son Binyamin Zev.

Shabbat Shalom,
Alan & Hannah

Much of the inspiration for my weekly Dvar Torah message comes from the insights of Rabbi David Fohrman and his team of scholars at www.alephbeta.org. Please join me in supporting this wonderful organization, which has increased its scholarly work during the pandemic, despite many of its supporters having to cut back on their donations.

Please daven for a Refuah Shlemah for Yehoshua Mayer HaLevi ben Nechama Zelda, Leib Dovid ben Etel, Mordechai ben Chaya, Hershel Tzvi ben Chana, Uzi Yehuda ben Mirda Behla, Dovid Meir ben Chaya Tzippa; David Moshe ben Raizel; Zvi ben Sara Chaya, Eliav Yerachmiel ben Sara Dina, Reuven ben Masha, Meir ben Sara, Oscar ben Simcha, Noa Shachar bat Avigael, Kayla bat Ester, Ramesh bat Heshmat, and Malka bat Simcha, who need our prayers. I have removed a number of names that have been on the list for a long time. Please contact me for any additions or subtractions. Thank you.
Shabbat Shalom,

Hannah & Alan

Drasha: Mishpatim: Position Impositions

by Rabbi Mordechai Kamenetzky © 1999

[Please remember Mordechai ben Chaya for a Mishebarach!]

How would you feel? That is a question asked by a wide-ranging group of inquisitors ranging from kindergarten teachers chiding their immature charges, to philosophy professors lecturing to disciples about the worlds of the theoretical. Its validity sets the tone from issues that vary from the golden rule to admonitions at the supper table. And at first glance it seems that the Torah uses the maxim to mitigate a deficiency in our very own human nature.

"Do not taunt or oppress a ger (newcomer) because you were strangers in the land of Egypt" (Exodus 22:20). According to most commentators, the verse refers to the ger — a convert to Judaism. Others comment however, that it also applies to any newcomer, be it to a neighborhood, a synagogue, or a school. Rashi explains that the Torah forewarns the Jewish nation from being cocky toward anyone who would join our people. "After all," Rashi expounds, "the stranger can easily remind us of our since-forgotten experience in Egypt, where we, too, were strangers."

However, something bothers me. The Torah's set of values is pure and unmitigated by personal partiality. So let us ask. Does it truly matter that we were once strangers? Is not it inherently wrong to taunt a newcomer? Shouldn't the Torah just say, "Do not taunt a newcomer? It is morally wrong!" Why is there even a mention of our Egyptian experience? Had we gone directly from Jacob's home to a settled life in the land of Israel, would we then be allowed to taunt newcomers? Of

course not! Our years of servitude should not influence the morality of taunting others! So why does the Torah consider our bad experience a factor?

Dr. Norman Blumenthal has published extensively about the unique experience of Holocaust survivors' children. Without revealing actual details, he related a case history of a young man whose father had escaped from a Nazi concentration camp at the age of 16 years old. The fugitive did not hide in the forest or in a barn, rather he joined a group of gentile partisans. For the duration of the war, he lived with them, ate with them, and killed Nazis with them. Still, the courageous young man never gave up his convictions and feelings of Judaism. On that day his father, by then a very successful executive who was very active in the American Jewish community, turned to him and said. "Son, now the easy life is over. Just like me, now you must learn what it takes to survive amongst the gentiles!" He sent the young teen to a university in the southern part of the United States where Jews were as rare as snow. Within months, the young man, mercilessly taunted in a foreign environment, suffered a nervous breakdown. It took years of therapy to undo the shambles.

Perhaps we can understand the posuk in a new homiletic light. The sages declare that our experience in Egypt was very necessary, albeit uncomfortable, one to say the least. Under the duress of affliction we fortified our faith. Under the pressure of ridicule we cemented our resolve. Under the strain of duress we built families and sustained our identity. And perhaps it was that experience that laid the ability to endure far-reaching suffering, tests of faith that were only surpassed by the tests of time.

And now enter the convert John Doe who hails from a corporate office in West Virginia and has made a conscious, comfortable decision to join the ranks of Moses' men. Our first reaction may just be to have him bear the test of the Jew. Like bootcamp in Fort Bragg, or beasting at West Point, we may have the urge even a compulsion to put Mr. Doe through the rigors of our oppression. After all, that is the stuff of which we are made. We may want to taunt and tease because "we were slaves in a foreign land." The Torah tells us not to do so. "Do not taunt or oppress a ger (newcomer) because you were strangers in a he land of Egypt." Do not impose your difficult experiences in life on others that are newcomers to your present situation. It is easy to say, "such men are made from sterner stuff" and proceed to harangue those who would join us. That should not be. Life has a personal trainer for every individual, and each soul has a particular program mapped out by the Almighty. Jews from birth may have had to suffer in Egypt, while converts have other issues to deal with. One's particular experience may not be fodder for the next person. Do not use your encounters as the standard for the entire world. One cannot view the world from the rear view mirror of his personal experience.

Good Shabbos

Thrown to the Dogs: Can One Act So Badly That the Rules Don't Apply to Them?

By Rabbi Gabriel Greenberg *

Thank you Rabbi Linzer for this opportunity to teach Torah. ** I am so excited to be learning Parshat Mishpatim with all of you.

We are just two weeks out from the events of Colleyville, Texas, where four people were taken hostage by a gunman and the gunman was eventually killed. There has been a debate in the weeks since about many things. One of which is, are we happy that the gunman was killed? Or should he have had the opportunity to be brought to justice?

It is a similar debate to what happened some years ago when Osama Bin Laden was killed by Navy Seal Team 6. They killed him in an extrajudicial fashion and he was never taken to court. Are we happy he died? Or should he have been tried and had full justice done in that respect?

It really begs a broader question. When do we say that certain laws and rules of society should be applied to everyone, or are there things that a person can do that are so bad that we withhold from them certain rights, or ways of treating them properly that we would apply to others?

There is a great story in the Jerusalem Talmud based on a verse in our parsha that speaks to that exact question (Yer. Ter. 8:3). There was once a butcher who was selling non-kosher meat to the Jews of his town. One day, this butcher was drinking on Shabbat. He climbed up to his roof to see the view and fell off the roof and died. The story proceeds to get gruesome: the butcher is lying on the ground dead, bleeding. Wild animals and dogs come and start drinking and lapping at his blood. The villagers go and ask Rabbi Chanina, "What should we do with his body? Should we move him?" His response is no. Why? Rabbi Chanina quotes from our parsha the pasuk "If you find non-kosher meat [neveilah, carrion], do not eat it; you should throw it to the dogs" (Ex. 22:30). Rabbi Chanina is saying that the butcher stole from the dogs the treif meat that had been rightfully theirs. By feeding non-kosher meat to Jews, he had been withholding it from the dogs. So Rabbi Chanina says, no, you should let the dogs eat him, as they are eating what is owed to them.

This gory story leads to a fascinating debate. The Hagahot Ashri, a 14th century commentary, says that from here we learn that a butcher who feeds non-kosher meat to Jewish people does not deserve burial. Butchers that do this are so bad that we should not even bury them.

Baruch Epstein, the author of the Torah Temimah, disagrees. He says that even an evil person like this butcher who was selling non-kosher meat deserves a burial. He learns it from the laws and elsewhere in the Torah where it describes the importance of a quick burial.

This debate is a great example of differing views on how to treat an evil person. The Hagahot Ashri says not to bury him. He has given up all rights of receiving any sort of good treatment from our society. Whereas the Torah Temimah says that everyone deserves burial; it does not matter how bad what you have done is, you deserve a certain level of justice and a certain level of respectable treatment by society.

This is a very important question that still resonates today. A pleasure learning with you and I look forward to learning again next week.

Shabbat Shalom.

* Executive Director at Penn Hillel, Rabbi Greenberg received semicha from YCT in 2012.

** From Rabbi Dov Linzer, Rosh HaYeshiva, Yeshivat Chovevei Torah: Friends, it has been my true privilege these many years to share with you my thoughts on the parsha, both in written form and more recently as videos. Now the time has come to pass the baton over to our amazing rabbis in the field. I know that we will be enriched by their insights and unique and distinct perspectives, as they bring the Torah, refracted through the lens of their rabbinates and the people they are serving, to all of us. We start with Rabbi Gabe Greenberg, executive director of Penn Hillel.

https://library.yctorah.org/2022/01/mishpatim/

Compliance or Alliance

by Rabbi Mordechai Rhine * © 2022

The name of the Parsha, "Mishpatim," which means laws, sounds like it will be focused on laws and commandments. Remarkably when it comes to financial matters (which is a major focus of the Parsha) the Torah actually encourages us to see beyond the law, into the relationships we have with one another. The Talmud tells us that the reason that Yerusholayim was destroyed was because, "They dealt with one another according to the strict interpretation of the law and did not go beyond the letter of the law."

The Rambam, in his introduction to the Mishna, writes that while financial law is certainly part of Torah, it would be wonderful, when possible, to influence litigants to dialogue and compromise rather than issuing a ruling according to the strict interpretation of the law. In an astounding statement, the Rambam writes: “If it were possible to avoid issuing a strict ruling one’s entire lifetime, and instead follow Pishara (compromise), it would be good and sweet.”

This does not mean that law does not have its place. Every compromise takes place in the shadow of the law, meaning with the awareness of what the law would say if it would go to court for a strict ruling. Compromise doesn’t mean simply split things half and half regardless of the claims. Compromise means that we listen well, and take people’s interests into account, within the general framework of Halachic right and wrong.
Pishara (compromise) differs from an issued ruling in a fundamental way. Instead of approaching life like a courtroom -- in which we try to prove who is right and who is wrong, who is to be commended and who is to be reprimanded — we strive to deescalate and build bridges and understanding between people. Essentially, from an adversarial setting we try to create alliance.

Litigants who come to court to win are encouraged to think of themselves on the same team, striving for the same goal: Resolution. As the Simah writes, “It is worth giving up a bit of money, to achieve harmony.” Instead of a desire to win, the desire is to achieve fairness and understanding. Indeed, in financial Halacha a ruling that is often found is, “He can have complaints.” This means that the claim is not actionable in a financial sense, but a person has been wronged, and a sincere conversation and apology are in order. Even when a claim is actionable, it is often the understanding and resolution that is even more important.

The difference between thinking in terms of law and thinking in terms of a mutual good is an attitudinal approach to life. Instead of being on opposite teams, employer, and employee, as well as husband and wife, can think of themselves as on the same team dealing with issues that have complexity and different angles. Together, they can arrive at remarkable solutions. The key to resolution is having the maturity and nobility to have the conversation.

I recall awhile back; a Mashgiach contacted me from a school commissary that had both a meat kitchen and a dairy kitchen. He informed me that the dishwasher wasn’t following the Kosher requirements his job required. Although the sinks and trays were all boldly marked with blue for dairy and red for meat, and the kitchens and their respective sinks were separate, the dishwasher was taking the large baking trays and washing them in whichever sink was convenient. The director and the Mashgiach were at wits end trying to get the dishwasher to comply with the simple rules. Despite repeated warnings, careless mistakes continued to occur. The Mashgiach called to ask if I had any thoughts to resolve the problem.

I decided to try the conversational approach.

On my next inspection I invited the dishwasher out to the dining area for a conversation. After making small talk for a few minutes, I mentioned the requirements in a Kosher kitchen to keep dairy and meat separate. I pointed out that we are very sincere and meticulous about this, as everyone can see the clear markings on the trays and on the sinks. We mused together about the possibility of cheesy mac and cheese residue in a dairy sink coming in contact with greasy meat residue while washing the pans. I pointed out that a mixture of dairy and meat would so violate the Kashrus endorsement and Jewish sensibilities that the students would rather go hungry than eat food cooked in such utensils.

I must have spoken with passion and sincerity because I could see he was deeply touched. He said, “No one even explained it to me. This is all new to me. They said it was a rule. They said it was the law.”

Personally, trained for years in Rabbinics and Talmudic law, I can’t fully understand why the rule and the law isn’t enough reason to be careful and compliant. But we are all coming from different backgrounds and cultures. Often, throwing the book at someone isn’t the most effective way to get them on board. Conversations of dignity can bridge the gaps of misunderstanding and nurture the alliances of life that we all rely on.

With best wishes for a wonderful Shabbos!

Rabbi Rhine, until recently Rav of Southeast Congregation in Silver Spring, is a well known mediator and coach. His web site, Teach613.org, contains many of his brilliant Devrei Torah. RMRhine@Teach613.org. **Teach613 recently started a new Shulchan Aruch Zoom class this week. For information or to join any Torah613 classes, contact Rabbi Rhine.**

A Divine Reminder: Thoughts for Parashat Mishpatim

By Rabbi Marc D. Angel *

The Kotzker Rebbe offered an imaginative scene relating to the Revelation at Mt. Sinai. While all the Israelites gathered to receive God's words, a group of elitists started to leave in the middle of the event. They reasoned: why did we bother to come to hear that we are not allowed to murder or steal or commit adultery? We knew these things on our own.

But then the Almighty told them to return to the site of the Revelation. He told them that they, too, needed to hear these commandments. Why? Because they sometimes have murder, theft and adultery in their hearts! They, too, need to hear directly from God that these actions are reprehensible. They, too, need a powerful reminder to live moral, upright lives.

The Torah portion last week reported on the Revelation at Sinai and the receiving of the Ten Commandments. This week's parasha focuses on ethical business dealings and practical, everyday moral behavior. Here, too, people might think: why do I need to read these passages relating to damages, loans, business dealings? We could figure these things out on our own!

But, as the Kotzker Rebbe suggested, everyone needs to be reminded of the Divine commandments relating to upright and honest dealings. Why? Because people sometimes have tendencies that lead to dishonesty and immoral behavior. The Torah gives a powerful reminder to rise above negative tendencies, and to live honest lives.

Moral conflicts arise in life. Should we make a profitable deal, even if it entails dishonesty? Should we try to cause damage to someone we dislike, even if that would entail transgression of basic Torah laws? People have a way of justifying their behavior, even when that behavior is destructive, dishonest, immoral.

In his play, "All My Sons," Arthur Miller portrays a family coping with a deep secret.

The head of the family, Joe Keller, was a manufacturer of engines for airplanes. During World War II, the government needed war materiel and Keller's business boomed. In the midst of heavy production, a batch of engines came out with cracks. These cracks were covered up superficially, and the engines were sold to the government. The defective engines led to the deaths of 21 pilots. When the government investigated the matter, Keller managed to get exonerated, shifting the entire blame on to his partner — who was imprisoned. Keller and family continued to live well; Keller's son Chris totally believed in the innocence of his father.

But the ugly truth could not stay buried forever. Chris became suspicious of his father's claims of innocence, and finally confronted him. Keller could no longer hide from the truth. "Joe Keller: (to his son Chris) You're a boy, what could I do! I'm in business, a man is in business; a hundred and twenty cracked, you're out of business...You lay forty years into a business and they knock you out in five minutes, what could I do, let them take forty years, let them take my life away?...I never thought they'd install them. I swear to God. I thought they'd stop 'em before anybody took off....Chris, I did it for you, it was a chance and I took it for you. I'm sixty-one years old, when would I have another chance to make something for you? Sixty-one years old you don't get another chance, do ya?"

After this admission, things spiral downward. Joe Keller commits suicide. Keller had lived a seemingly happy and successful life, while all the while he knew that he was responsible for selling defective engines, for causing the deaths of 21 pilots, for foisting the entire blame on to his partner. He maintained an illusion of innocence; once that illusion was destroyed, so was his life.

How did he manage to maintain that illusion of innocence for so long? How did he sleep at night knowing the terrible things he had done? Like many people, Joe Keller was able to lie to himself, to block out feelings of guilt or personal responsibility. But the truth will out…and the consequences can be devastating.

The Torah reminds us to strive to be good and upright people, to overcome negative temptations. No one should assume that these lessons are not relevant or not needed. They are relevant and are needed.

Happy is the person who can stand before the Almighty with clean hands and pure heart.

* Founder and Director, Institute for Jewish Ideas and Ideals.

https://www.jewishideas.org/divine-reminder-thoughts-parashat-mishpatim

** The Angel for Shabbat column is a service of the Institute for Jewish Ideas and Ideals, fostering an intellectually vibrant, compassionate and inclusive Orthodox Judaism. Please join our growing family of members by joining online at www.jewishideas.org

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Thoughts on Holocaust Education, Anti-Semitism, and Overcoming Bigotry

A Blog by Rabbi Marc D. Angel *

With the spate of anti-Semitic incidents in recent weeks, we have heard many calls for increasing education about the Holocaust. The prevailing wisdom is that when people — especially young people — learn about the horrors of the Holocaust, they will become more sympathetic to Jews and more aware of the dangers of religious and racial hatred. With more knowledge about the Holocaust, it is assumed that people will be less prone to anti-Semitic attitudes and behaviors.

It should be agreed that the various efforts at Holocaust education have had a positive impact on many. Millions of people have visited the various Holocaust museums and memorials. Large numbers of students have learned about the Holocaust in their social studies classes.

And yet, Holocaust education — unless handled very well — can have negative consequences. For those who are steeped in anti-Jewish hatred, Holocaust education may actually encourage their anti-Semitism. They see that millions of Jews were systematically slaughtered, while much of the world stood aside. They see Jews as a relatively defenseless minority group that is an easy target for hatred and violence. In the minds of rabid Jew-haters, the Holocaust is an ideal…not a disaster.

Holocaust education — unless handled very well — can have negative consequences for Jewish students. Jews — especially young and impressionable ones — may wonder why they should maintain Jewish identity if it can be so risky to do so. While I believe that most Jewish students will be moved to greater sympathy and identity with Jewish Peoplehood, some may be impacted in the opposite direction. They will see no particular virtue in being part of a hated minority, victimized so cruelly by the Nazis…and still subjected to anti-Jewish hatred today.

There is no one “silver bullet” for putting an end to anti-Semitism. Holocaust Education can successfully reach many people with a message of the dangers of hatred, the value of tolerance. Interfaith and intergroup conferences are helpful in creating normal human interchanges where all participants are viewed as fellow human beings…not as stereotypes. When Jews and non-Jews interact positively as neighbors, as business associates, as co-workers, as responsible citizens — positive attitudes naturally ensue.

With all the current news about anti-Semitism in the United States, people (including Jews) sometimes forget that national polls have found that Jews are among the most highly regarded religious groups in America. Jews are recognized for their sense of social justice, their leadership in so many fields, their contributions in education, science, medicine, the arts etc.

This is not to ignore, or downplay, anti-Semitism or anti-Jewish behavior. But it is important to keep things in context. It is also, unfortunately, a fact that extremism in general has been increasing against other groups. The civil discourse in American society has become harsher, more strident, and angrier. There is a malady in the United States (and other countries), of which anti-Semitism is a symptom.

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Sholom Aleichem wrote a story about a Jewish young man who was conscripted into the Russian army, and was trained how to use his rifle “At the firing line the sergeant noticed Yechiel shooting up in the air instead of ahead; he poured a flood of curses and abuse on his head, with all the worst names for Jews in Russian to boot, and showed him where to aim his gun. A little later the sergeant again saw Yechiel aiming up in the air. This time he was flabbergasted: What, he wanted to know, was the matter with that crazy Jewish soldier? Hadn’t he told Yechiel where to aim his gun? ‘Yes,’ Yechiel replied, ‘but there are people there!’”

This seemingly amusing story points to a serious truth. When people see each other as fellow human beings, it is difficult to shoot at them. To engage in violent action first requires a process of dehumanization of the victim. People need to be trained to hate the “enemy,” to see the other as a villain unworthy of life.

The root of hatred in our society — in all human societies—arises with the planting of seeds of mistrust, fear and vilification of those deemed as “the enemy.” Once the victims are dehumanized, violent action against them becomes possible. There’s no need to show mercy on people who are now deemed to be vermin.

Jews know as well as anyone — probably better than anyone — how dangerous it is to become victimized by haters. Once the hatred seeps in, violent words and actions follow. Once people come to dehumanize others, they become capable of acting against them with egregious cruelty.

It is impossible to ignore the growing polarizations within our society today. The level of hateful discourse has led to increasing acts of violence.

We Jews certainly feel the pain of being dehumanized, negatively stereotyped…but so do almost all people who are targets of one hate group or another. There are those who demonize Jews, blacks, whites, Hispanics, Asians, Christians, Muslims, immigrants, homosexuals…the list goes on. Because hatred is aimed at virtually everyone, virtually everyone needs to rise and resist it.

Demonization of any one group threatens the moral fabric of the entire society.

Unless society as a whole can address the plague of dehumanization and demonization, all of us — of whatever background — are at risk. Each of us, in our own way, can contribute to creating a more harmonious, tolerant, humane society.

We need to strive for a society where we look into each other’s eyes and see a fellow human being. As Yechiel in Sholom Aleichem’s story said: There are people there!

* Founder and Director, Institute for Jewish Ideas and Ideals.

https://www.jewishideas.org/blog/thoughts-holocaust-education-anti-semitism-and-overcoming-bigotry-blog-rabbi-marc-d-angel

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Mishpatim – The Truth About Falsehood

by Rabbi Yehoshua Singer*

The significance of honesty and the evil of falsehood are generally considered to be self-evident and not topics worthy of extensive discussion. However, if we stop for a moment and consider the words of the Torah and our rabbis, it would appear that the topic is far more fundamental and significant than we assume.

Hashem tells us in this week's parsha, "Distance yourself from a false word". (Shemos 23:7) This is the only place where we are commanded to distance ourselves from a character trait. (There is a Torah principle of establishing safeguards to avoid sinning. For example, one should not handle a pen on Shabbos, so one should not come to accidentally write with it. That is a general principle that one should appreciate the gravity of sin and take precautions to avoid any possibility of sinning. Falsehood is unique in that the commandment itself is to keep a distance from falsehood. Coming close to falsehood is already a sin, in and of itself.)

The Sforno (ibid.) adds that we must distance ourselves from anything that could lead to falsehood, such as what we are taught in Pirkei Avos (1:9), "Be careful with your words, so they should not learn to lie from them." A teacher who teaches honestly but is not careful to ensure that the students understand properly is guilty of coming close to falsehood, for he has not avoided causing falsehood in the world. It is not only the character trait of falsehood we must avoid, but falsehood itself.

The Orchos Tzadikkim lists nine types of liars in the Gate of Falsehood. The fourth one is a person who is accustomed to lying and will embellish stories with lies or sometimes even make up entire stories. This person does not gain anything from lying and does not hurt anyone. Nonetheless, he is punished for it because he loves lying even when there is nothing to gain. He then adds that there is a sub-category of one who doesn't choose to lie, but is not concerned enough to be careful to get the facts straight before repeating them. Even so, the facts are irrelevant – he does not stand to gain, nor is anyone hurt by the details. The Torah requires us to seek out truth in everything we do and say.

Why is truth so significant and falsehood so evil? Why did Hashem choose to single out this character trait, when we are not commanded to distance from arrogance, hatred, anger or any other character trait? Why is it forbidden to even be an accidental cause for someone else's mistake, or to be imprecise in the details of a story? Clearly falsehood and truth is at the core of a Torah life, but why?

The Sefer Hachinuch (Mitzvah 74) explains that there is a unique danger and damage in falsehood. We were created to emulate G-d, and thereby draw close to Him. G-d is Real and Truthful in all that He is and does. It is even how we refer to Him – He is the True G-d. (Yirmyah 10:10) When we are real and true to our core, then we are emulating G-d. He adds that being real and true to ourselves, we bring blessing into our lives, for if we look around, those who love lies are surrounded with hardships and challenges in their personal lives.

The Orchos Tzadikkim teaches in the beginning of the Gate of Truth that our souls are created from the highest levels of holiness, at the core of reality, directly beneath G-d's Heavenly Throne. In that holiest of holy places there is no falsehood, only truth and reality. It is the core of who we are. G-d made us to be straight and real, just as He is. He adds that falsehood and truth cannot cling to each other. Since G-d is truthful, we must be truthful at our core to be able to connect with Him.

Truth and falsehood are unique in that they lie at the very core of our connection with G-d and at the very core of our own identity. When we allow falsehood into our personality we are destroying our own inherent holiness and distancing ourselves from G-d. When we engage in truth, in being real, we are enhancing our spiritual essence, drawing close and deepening our bond with our Creator. Truth is our essence.

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Jews and Mobile Education Part 2: From Farmers' Markets to Stopping Anti-Semitism

By Rabbi Moshe Rube *

On my Uber ride back from the MLK Unity breakfast at the Birmingham JCC, my driver told me all about his former career as a truck driver. He told me how he used to drive all across the country. He told me how he now works more on the managerial side of the business, hiring and dealing with all the drivers under him.

I thanked him for his work and asked him what he thought about the current hiring and supply chain crisis I keep hearing about on the news. Does he have any trouble finding people willing to drive a truck? He answered yes and that many companies now offer up to a $15,000 signing bonus plus competitive salaries that can start at $50,000 and reach up to $100,000.

This floored me. Six figures for driving a truck!? Why weren't people running towards this? College graduates now dream of such an offer and truck driving does not even require a degree.

The full socioeconomic answer to this may be outside the purview of this email. But we can make a suggestion and connect it to the broader world of the purposes of education and its consequences that we were talking about last week.

To get there though we will have to travel through farmers' markets, Publix, and a theory on the source of anti-Semitism. But I promise we will end with hope.

A gut reaction we can have when thinking about the truck driving profession is that it's unglamorous. One major element of truck driving that contributes to this is that it's a middleman profession. Truck drivers do not make anything in their work. They transport items that other people have made. Many of us have a desire for work that allows us to see and feel the results at the end of the day. Truck drivers have less of that. (Our Sages relate that one of the worst elements of the slavery in Egypt was that Pharoah forced us to build on Pisom and Raamses. These were places that had quicksand so whatever the Jews built went to pieces quickly after. We suffered more by not seeing the results of our work.)

Also, think about this. Which method of shopping strikes you with an immediate shot of spiritual warmth? Shopping at Publix or shopping at a farmers' market? I thought so

It may be the same produce. But buying directly from the person who produced the product makes it feel more real. This also leads us to forgive and feel empathy for a farmer even if he raises his prices, because we assume it's due to factors beyond his control. But if Publix, the great corporate middleman, raises prices, even if it has the very reasonable explanation that it's due to the supply chain, we're more willing to blame and attack the corporation.

This middlemen bias may not only affect our shopping or job preferences, but also be a basis of some of the worst expressions of hate in human history. In Thomas Sowell's essay "Are Jews Generic?," he zooms in on what he calls the "middleman minority." The overarching argument of the essay is that while anti-Semitism comes from many motivations like ethnic hatred, racism, and anti-Zionism, it achieves its most horrifying expression (like pogroms and outright genocide) in societies where Jews work or have a historic reputation for working in the middleman professions like shopkeepers, peddlers, porters, moneylenders and traders.

Sowell states, "Other kinds of minorities, have of course suffered violence, but the scale of lethal mass violence against middleman minorities has been unequalled."

He proves this by looking at the violence that have happened throughout history to people of other cultures like the Armenians in Turkey, the Ibos in Nigeria or the Lebanese in Sierra Leone. All involved groups who were minorities in a culture and worked in middleman positions.

Like the Jews, these people were immigrants and chose these professions because that's the only work they could find. (Newcomers in a country rarely have enough capital to buy land and start farming or start a factory.) Like the Jews, they were good at it and worked from the wee hours of the morning to late at night to make ends meet in their new home and

eventually acquired success. Like the Jews, the majority culture around them saw them as redundant, parasitic and as thieves from the authentic dwellers of that land who worked in production rather than trade.

Redundant and parasitic? Hardly. Middleman jobs like distribution, truck driving, trading, and facilitating connections between people, while lacking the pastoral romance of the land, is one of the most essential jobs we have in human society. How many of us live near a farmer to be able to buy our food? How many of us rely on home delivery to receive the mailings and items we need? How many of us could have received the vaccine except of course for those who live near Moderna's and Pfizer's headquarters?

Thank you to all our middlemen who perform these necessary functions in our lives. Whatever grief you receive from taking on these professions is too much.

With this information, what do we make of our Jewish nation's remarkable abilities in mobile education that we discussed last week? In our entry to countries, and throughout our history, we have taken on the role of middleman (like peddling or moneylending) in our efforts to adapt, evolve and make the best of our situation. We're good at it. We've succeeded at it beyond our wildest expectations everywhere we've traveled. And yet, it may be this ability that has invited the most lethal ire against us.

This week, we read about the giving of the Torah at Sinai. The Talmud tells us that the mountain name symbolizes that the Torah causes "Sinah" or hatred against us from others. What does this mean? It means the things that make Jews special and necessary, our Torah and our ability to learn, educate, and adapt, can be the very things that cause others to hate us.

What about you? What makes you special? Have you found that the everything that sets you apart is often the thing that invites the most disdain?

So what can Jews do? Never work as middlemen again? Not go into the professions available to us when necessary because we're scared? Of course not.

But I have hope and it comes from observing the current events that surround us.

With the emergence of the global economy, middlemen are no longer a minority. So much trade goes on between people, states, and countries that humanity is slowly realizing how necessary middlemen are. All the Amazon Prime members can speak to that. The latest crisis with the supply chain and the truck driver shortage compounds this realization tenfold.

Maybe we can see this as a worldwide training ground for appreciation of the middleman. If it's true that this is the source of the worst types of violence, then maybe we will see it fade away in the coming years. Hatred will end because we're realizing how much we need each other

Granted this will take time. Anti-Semites, especially terrorists, still use the language of a "Jewish world conspiracy" born from the idea that Jews control all the money due to our historical prominence in middleman professions. But with the changing state of the world, we can hope.

So the next time you get a delivery from UPS, Amazon, or Shipt, give that middleman a smile.

Shabbat Shalom.

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Rav Kook Torah
Mishpatim: Legislating Kindness

The Borrower's Liabilities

Rabbi S. R. Hirsch wrote that the laws governing a borrower are "perhaps the most difficult of all the rules of Jewish civil law to comprehend."1 I borrowed a pencil from my friend, but it rolled off the table and broke in half. Do I need to pay for a new one?

> *"If a person borrows something and it breaks or dies... the [borrower] must make full restitution. However, if the owner was with him, he need not make restitution."* (Exod. 22:13-14)

A borrower is accountable for all types of damage or loss — even for completely unpreventable accidents. Even if the pencil I borrowed was swept away in a tornado, I am still obligated to buy a new one for my friend.

This comprehensive liability appears to be unreasonable. If I had not borrowed the pencil, it would still have been lost when the tornado struck. Why should I have to pay? As the Talmud in Baba Metzia 36b puts it: "What difference does it make to the Angel of Death where it is located?"

Encouraging Chessed

Rav Kook explained that the Torah placed extra liabilities upon the borrower, even in cases when the article would have been lost even if it had not been borrowed, in order to encourage people to be helpful and lend to one another. This is similar to the rationale for special rabbinical legislation protecting those who lend money, so that "the door will not be closed for [would-be] borrowers" (Sanhedrin 32a). Since the lender receives nothing in return for his kindness, the Torah sought to counterbalance any selfish thoughts that might prevent him from assisting his neighbor.

Strange Exemption

This overall understanding helps explain the most peculiar aspect of the law of the borrower — his exemption from liability when be'alav imo — when "the owner was with him." The Torah rules that if the owner was working for the borrower at the time of the loan (whether for pay or just as a favor), the borrower is no longer responsible for damages.

One might think that the Torah is referring to a situation where the owner and borrower were working together with the borrowed object, such as driving a tractor to plow a field together. But the Sages explained in Baba Metzia 95b that it makes no difference what service the owner was performing for the borrower. Thus, if my neighbor was helping me with my computer when I asked to borrow his pencil, I am no longer liable for the pencil's damage or loss.

Even more surprising, the Sages taught that this exemption takes effect if the owner assisted the borrower at the time of the loan. What the owner was doing when the article broke, however, is irrelevant (Baba Metzia 94a-b).

Why should it matter if the owner was working for the borrower? We could understand that if the owner was present when the object was damaged; the borrower could exempt himself from liability by claiming that the owner was able to check that the borrowed object was used properly. But why should it make a difference if the owner was present at the time of the loan? This exemption is so illogical that one highly-respected authority2 wrote in despair: "This is an unsolved problem which I have taxed my brain to make sense of and find a reason for — but in vain."

No Need for Extra Measures

The explanation presented above, however, provides a solution to this riddle. The reason why the Torah placed comprehensive liability upon the borrower was in order to encourage kindness and generosity. In the case of be'alav imo, however, we see that the owner assists the borrower to a greater degree than is common between neighbors. The lender's service for the borrower indicates that they are on friendly terms. In such a case, it is unlikely that the owner will refuse to lend out his possessions. Therefore, the Torah did not see a need to place extra liabilities upon the borrower in order to encourage the loan.

For this reason, the verse concludes with the law of a rented article: “If the article was hired, [the loss] is covered by the rental payment” (Exod. 22:14). The juxtaposition of these two cases indicates that the borrower — when the owner is working with him — is similar to a person renting an object. What is common to these two cases? In both situations, the lender was the recipient of some benefit from the borrower. Therefore, the borrower is not liable for accidental loss or breakage.

Borrowing a Horse to Rob a Bank

Finally, this reasoning helps clarify the Talmud’s question in Baba Metzia 96a. The Sages debated whether one who borrowed an animal for illicit purposes — say, to rob a bank — is also liable if the animal dies. Why should the purpose of borrowing be a factor in the extent of the liability?

According to the reasoning above, this question becomes clear. If the borrower’s motives are improper, the Torah would not wish to encourage such a loan. It is preferable that the borrower not be made liable in all situations, thus discouraging the owner from lending out his property for improper or illegal purposes.

(Sapphire from the Land of Israel. Adapted from Otzarot HaRe’iyah vol. II, p. 519.)

Footnotes:

1. From Rabbi Hirsch’s commentary to Exodus 22:13.
2. Rabbi Yair Bachrach (1639-1702), prominent legal scholar, author of the collection of responsa entitled Chavat Yair.

http://www.ravkooktorah.org/MISHPATIM_65.htm

Loving the Stranger (Mispatim 5779)

By Lord Rabbi Jonathan Sacks, z”l, Former Chief Rabbi of the U.K.*

There are commands that leap off the page by their sheer moral power. So it is in the case of the social legislation in Mishpatim. Amid the complex laws relating to the treatment of slaves, personal injury and property, one command in particular stands out, by virtue of its repetition (it appears twice in our parsha), and the historical-psychological reasoning that lies behind it:

> *Do not ill-treat a stranger or oppress him, for you were strangers in Egypt.* Exodus 22:20
>
> *Do not oppress a stranger; you yourselves know how it feels to be a stranger [literally, “you know the soul of a stranger”], because you were strangers in Egypt*. Ex. 23:9

Mishpatim contains many laws of social justice – against taking advantage of a widow or orphan, for example, or charging interest on a loan to a fellow member of the covenantal community, against bribery and injustice, and so on. The first and last of these laws, however, is the repeated command against harming a ger, a “stranger.” Clearly something fundamental is at stake in the Torah’s vision of a just and gracious social order.

If a person was a son of proselytes, one must not taunt him by saying, “Remember the deeds of your ancestors,” because it is written “Do not ill-treat a stranger or oppress him.”

The Sages noted the repeated emphasis on the stranger in biblical law. According to Rabbi Eliezer, the Torah “warns against the wronging of a ger in thirty-six places; others say, in forty-six places.”[1]

Whatever the precise number, the repetition throughout the Mosaic books is remarkable. Sometimes the stranger is mentioned along with the poor; at others, with the widow and orphan. On several occasions the Torah specifies: “You shall have the same law for the stranger as for the native-born.”[2] Not only must the stranger not be wronged; he or she must be included in the positive welfare provisions of Israelite/ Jewish society. But the law goes beyond this; the stranger must be loved:

> *When a stranger lives with you in your land, do not mistreat him. The stranger living with you must be treated as one of your native-born. Love him as yourself, for you were strangers in Egypt. I am the Lord your God.* Lev. 19:33–34

This provision appears in the same chapter as the command, "You shall love your neighbour as yourself" (Leviticus 19:18). Later, in the book of Deuteronomy, Moses makes it clear that this is the attribute of God Himself:

> *For the Lord your God is God of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality and accepts no bribes. He defends the cause of the fatherless and the widow, and loves the stranger, giving him food and clothing. And you are to love those who are strangers, for you yourselves were strangers in Egypt.* Deut. 10:17–19

What is the logic of the command? The most profound commentary is that given by Nachmanides:

> *The correct interpretation appears to me to be that He is saying: do not wrong a stranger or oppress him, thinking as you might that none can deliver him out of your hand; for you know that you were strangers in the land of Egypt and I saw the oppression with which the Egyptian oppressed you, and I avenged your cause on them, because I behold the tears of such who are oppressed and have no comforter…Likewise you shall not afflict the widow and the orphan for I will hear their cry, for all these people do not rely upon themselves but trust in Me.*

And in another verse he added this reason:

> *for you know what it feels like to be a stranger, because you were strangers in the land of Egypt. That is to say, you know that every stranger feels depressed, and is always sighing and crying, and his eyes are always directed towards God, therefore He will have mercy upon him even as He showed mercy to you [and likewise He has mercy on all who are oppressed].[3]*

According to Nachmanides the command has two dimensions. The first is the relative powerlessness of the stranger. He or she is not surrounded by family, friends, neighbours, a community of those ready to come to their defence. Therefore the Torah warns against wronging them because God has made Himself protector of those who have no one else to protect them. This is the political dimension of the command. The second reason, as we have already noted, is the psychological vulnerability of the stranger (we recall Moses' own words at the birth of his first son, while he was living among the Midianites: "I am a stranger in a strange land," Ex. 2:22). The stranger is one who lives outside the normal securities of home and belonging. He or she is, or feels, alone – and, throughout the Torah, God is especially sensitive to the sigh of the oppressed, the feelings of the rejected, the cry of the unheard. That is the emotive dimension of the command.

Rabbi Chayim ibn Attar (Ohr HaChayim) adds a further fascinating insight. It may be, he says, that the very sanctity that Israelites feel as children of the covenant may lead them to look down on those who lack a similar lineage. Therefore they are commanded not to feel superior to the ger, but instead to remember the degradation their ancestors experienced in Egypt.[4] As such, it becomes a command of humility in the face of strangers.

Whichever way we look at it, there is something striking about this almost endlessly iterated concern for the stranger – together with the historical reminder that "you yourselves were slaves in Egypt." It is as if, in this series of laws, we are nearing the core of the mystery of Jewish existence itself. What is the Torah implying?

Concern for social justice was not unique to Israel.[5] What we sense, however, throughout the early biblical narrative, is the lack of basic rights to which outsiders could appeal. Not by accident is the fate of Sodom and the cities of the plain sealed when they attempt to assault Lot's two visitors. Nor can we fail to feel the risk to which Abraham and Isaac believe they are exposed when they are forced to leave home and take refuge in Egypt or the land of the Philistines. In each of the three episodes (Genesis chapters 12, 20, 26) they are convinced that their lives are at stake; that they may be murdered so that their wives can be taken into the royal harem.

There are also repeated implications, in the course of the Joseph story, that in Egypt, Israelites were regarded as pariahs (the word "Hebrew," like the term hapiru found in the non-Israelite literature of the period, seems to have a strong negative

connotation). One verse in particular – when the brothers visit Joseph a second time – indicates the distaste with which they were regarded:

> *They served him [Joseph] by himself, the brothers by themselves, and the Egyptians who ate with him by themselves, because Egyptians could not eat with Hebrews, for that is detestable to Egyptians.* Gen. 43:32

So it was, in the ancient world. Hatred of the foreigner is the oldest of passions, going back to tribalism and the prehistory of civilisation. The Greeks called strangers "barbarians" because of their (as it seemed to them) outlandish speech that sounded like the bleating of sheep.[6] The Romans were equally dismissive of non-Hellenistic races. The pages of history are stained with blood spilled in the name of racial or ethnic conflict. It was precisely this to which the Enlightenment, the new "age of reason," promised an end. It did not happen.

In 1789, in revolutionary France, as the Rights of Man were being pronounced, riots broke out against the Jewish community in Alsace. Hatred against English and German immigrant workers persisted throughout the nineteenth century. In 1881 in Marseilles, a crowd of ten thousand went on a rampage attacking Italians and their property. Dislike of the unlike is as old as mankind. This fact lies at the very heart of the Jewish experience. It is no coincidence that Judaism was born in two journeys away from the two greatest civilisations of the ancient world: Abraham's from Mesopotamia, Moses' and the Israelites' from Pharaonic Egypt.

The Torah is the world's great protest against empires and imperialism. There are many dimensions to this protest. One dimension is the protest against the attempt to justify social hierarchy and the absolute power of rulers in the name of religion. Another is the subordination of the masses to the state – epitomised by the vast building projects, first of Babel, then of Egypt, and the enslavement they entailed. A third is the brutality of nations in the course of war (the subject of Amos' oracles against the nations). Undoubtedly, though, the most serious offence – for the prophets as well as the Mosaic books – was the use of power against the powerless: the widow, the orphan and, above all, the stranger.

To be a Jew is to be a stranger. It is hard to avoid the conclusion that this was why Abraham was commanded to leave his land, home and father's house; why, long before Joseph was born, Abraham was already told that his descendants would be strangers in a land not their own; why Moses had to suffer personal exile before assuming leadership of the people; why the Israelites underwent persecution before inheriting their own land; and why the Torah is so insistent that this experience – the retelling of the story on Passover, along with the never-forgotten taste of the bread of affliction and the bitter herbs of slavery – should become a permanent part of their collective memory.

It is terrifying in retrospect to grasp how seriously the Torah took the phenomenon of xenophobia, hatred of the stranger. It is as if the Torah were saying with the utmost clarity: reason is insufficient. Sympathy is inadequate. Only the force of history and memory is strong enough to form a counterweight to hate.

The Torah asks, why should you not hate the stranger? Because you once stood where he stands now. You know the heart of the stranger because you were once a stranger in the land of Egypt. If you are human, so is he. If he is less than human, so are you. You must fight the hatred in your heart as I once fought the greatest ruler and the strongest empire in the ancient world on your behalf. I made you into the world's archetypal strangers so that you would fight for the rights of strangers – for your own and those of others, wherever they are, whoever they are, whatever the colour of their skin or the nature of their culture, because though they are not in your image, says God, they are nonetheless in Mine. There is only one reply strong enough to answer the question: Why should I not hate the stranger? Because the stranger is me.

Footnotes:

[1] Bava Metzia 59b.

[2] Exodus 12:49; Leviticus 24:22; Numbers 15:16, 29.

[3] Ramban, commentary to Exodus 22:22.

[4] Ohr HaChayim, commentary to Exodus 22:20.

[5] See Moshe Weinfeld, Social Justice in Ancient Israel and in the Ancient Near East (Jerusalem: Magnes Press, 1995).

[6] The verb barbarízein in ancient Greek meant imitating the linguistic sounds non- Greeks made, or making grammatical errors in Greek.

* Note: because Likutei Torah and the Internet Parsha Sheet, both attached by E-mail, normally include the two most recent Devrei Torah by Rabbi Sacks, I have selected an earlier Dvar. For older Devrei Torah, footnotes are not always available.

https://www.rabbisacks.org/covenant-conversation/mishpatim/loving-the-stranger/

A Glass of Milk and a Cup of Kindness

By Aharon Loschak *

Here's something that happens all the time:

Someone acts out of line, objectively so, and you need to discipline them. A child hits a sibling or peer, a friend plays around with addictive substances, or your spouse says something particularly nasty to you.

What do you do?

Do you let it go, opting to be the "nice guy" and avoid rocking the boat? Or do you intervene, telling off the child, giving your friend the skinny, or telling your spouse that you've been hurt?
Which one is the "right" path to take?

Both.

The trick is to do them in the right order.

The Time Between

Our parshah introduces the laws of kosher, with the famous and enigmatic words, "Do not boil a kid in its mother's milk,"1 from which we learn one of the bedrock kosher laws: the prohibition to mix meat and dairy.

That the two cannot mix is relatively common knowledge. Lesser known are the laws governing the sequence in which these two food types may be eaten. A cheeseburger is a no-no; but may I down a glass of milk and immediately thereafter go for the pastrami? How about the other way around?

Halachah is clear: after one eats meat, there is a required wait-time of six hours.2 In contrast, after eating dairy products, the wait time is much shorter, varying by custom.3

What is the deeper implication of this distinction? What message is contained in the fact that meat requires a long separation before milk is introduced, but not the other way around?

Milk Represents Kindness; Meat Represents Discipline

Kabbalah teaches that every creation, every being, has an inner, spiritual dimension. Thus, a piece of steak and a glass of milk differ not merely in body, but also in spirit; their differing physical characteristics express a deeper difference in their spiritual source.

In the spiritual realm, milk and meat are sourced "opposing" G dly traits: kindness (chesed) and discipline (gevurah). These two characters are somewhat of a prototype in Kabbalah, two vastly different ways in which G d relates to this world — one with expansiveness, benevolence, and graciousness, and the other with discipline, discretion, and harshness.

The spiritual sources for milk and meat are even reflected in the natural color of the two materials: meat, which stems from gevurah, is red — a bright and harsh color, whereas milk which stems from chesed, is white — pure and soft.

The Bottom Dominates

We're almost ready to return to the discussion regarding the wait times between milk and meat, but first we must detour and explore an important law in the world of kosher.

What happens when kosher and non-kosher foods mix? Does the latter contaminate the former, rendering it treif?

Generally speaking, the rule is that food must be hot for taste to transfer. Cold kosher and non-kosher foods that touch do not pose a problem. When they are hot, however, they exchange tastes and the non-kosher food renders the kosher food unkosher.

For example, if a slice of hot baked apple fell on a hot piece of bacon, the taste of the bacon transfers to the apple (and vice versa) due to the heat, and the apple becomes as non-kosher as the bacon.

What, then, is the rule when only one food is hot? If, for example, it was an apple from the fridge that fell on a hot piece of bacon, do we say that the hot bacon "heats up" the apple and transfers its taste? Or do we say the apple "cools down" the bacon and prevents any taste from transferring at all?

The law is that "the bottom prevails." In other words, whichever food is on the bottom dominates. Thus, if hot food is placed (or falls) on cold food, it's still kosher, whereas if cold food is placed (or falls) on hot food, it is now treif.4

[Note: These laws are quite complex, and practically speaking, a competent Orthodox rabbi should be consulted if such cases occur. The above is just a general guideline.]

Line Your Base with Milk

Let's bring it all together now.

Remember: If you start with meat, you must take a significant break and then start again with milk. By contrast, if you start with milk, you can move on to meat relatively quickly.

Why? Because in life, you must always begin with kindness.

Of course, every person needs both "milk" and "meat" in their life — kindness and discipline. Not every situation calls for us to be permissive, to say yes. Sometimes we must forcefully put down our foot and say no. And sometimes, we even need to criticize.

But the laws of milk and meat teach us how to properly balance these two emotions: Inasmuch as "the bottom is dominant," the one we establish first influences what follows.

So, if you start with kindness ("milk"), you have established kindness as your base, and it tempers any ensuing discipline. That is desirable, and is reflected in the law that when milk comes first, you need not wait very long until eating meat.

But if you start with discipline ("meat"), you have established discipline as your baseline, and it will dominate any ensuing kindness. This is not the proper path, and you must start over — reflected in the law that if meat comes first, a long wait-time ensues until you can resume with milk.

Kindness Always Wins

The message here is obvious: Always begin with kindness. Your baseline approach should always be gracious and loving. Of course, you'll need to employ criticism and discipline here and there, but make sure to sweeten it first with love.

If you need to criticize someone, ask yourself if you want what's best for that person, or simply want to "let 'em have it!" If it's the latter, think again. If it's the former, then go ahead, but make sure you couch your constructive comments with loving words.

If you need to take action against a wayward child, or express hurt feelings to a spouse, or cut an employee's pay, there are ways to do such things without coming across as a bull in a china shop. Take the time to look under your own hood and determine how to sweeten and soften the blow.

Whatever it is, remember to first drink a glass of milk and serve it with a cup of kindness.5

FOOTNOTES:

1. Exodus 23:19.

2. For an explanation of this law, see Why Wait Between Meat and Milk?

3. There are exceptions for certain pungent cheeses with strong taste, such as parmesan cheese. See Why the Extended Wait Between Aged Cheese and Meat?

4. See Shulchan Aruch Yoreh Dei'ah, ch. 105.

5. This essay is based on Rabbi Shalom Buzaglo (c. 1700 – 1780), Mikdash Melech to Zohar, Pinchas 231b.

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https://www.chabad.org/parshah/article_cdo/aid/5379359/jewish/A-Glass-of-Milk-and-a-Cup-of-Kindness.htm

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Did Maimonides Accept Contemporary Converts as Jewish?

By Yossi Ives *

At face value, this seems like a simple enough question. While not a proselytizing faith, we have long accepted converts to the religion and treated them as full members of the community.

A closer look, however, raises an interesting problem. Maimonides1 explains that the Israelites at Sinai "entered into the covenant" in three ways: circumcision, immersion in water, and by bringing an offering (animal sacrifice). He continues to explain that these three requirements apply to all later generations. The Torah2 states, "Like you, so the convert," indicating that the means of entry for the new convert is to be the same as that of the original Israelites: circumcision, immersion in water, and bringing an offering.

Maimonides addresses the current reality when bringing an offering is not possible. "Nowadays where there are no offerings, [the convert] requires circumcision and immersion in water. When the Temple is rebuilt, he can then bring his offering." This could imply that in the interim something is missing in the fullness of the conversion.

Indeed, Maimonides seems to be saying exactly this in another section of his code:3 "A convert who has circumcised and immersed, but has not yet brought an offering… the absence of the offering prevents him from being a complete convert."

Despite these rulings, we find that Maimonides himself wrote a beautiful letter of encouragement to a unique individual, Ovadia HaGer (Ovadia the convert) who converted from Islam4 to Judaism.5 In the letter, Maimonides assures him that a convert is even greater than someone born Jewish. While the latter can trace his or her lineage to their ancient forbearers, a convert traces his or her lineage to the Almighty Himself.

Maimonides brings proof for this from the way the convert brings the bikkurim, the first-fruit offering in the Temple, in the same manner as any other Jew, even though the text references events that took place to the Israelites of previous generations. This clearly indicates that the convert is included as well.

Maimonides draws this comparison despite the fact that in those days the Temple obviously stood, so a convert could bring an offering as part of their conversion, while Ovadia could not. Suffice it to say that Maimonides would not have given empty platitudes to Ovadia. He would not have told him that he was an even greater Jew, unless he sincerely meant it.

To make sense of all this requires a change in perspective, which the Rebbe provides in simple and beautiful fashion.

Nowhere does Maimonides state that those three steps are all required in order to join the faith. Rather he says in the passive voice that when a person wishes to convert these three things need to happen. There is the key. Only two of the three steps – circumcision and immersion – are designed to enter the faith. The last – bringing an offering – is not designed as a means of entry but in order to cleanse impurities from the convert's previous life.

One of the remaining obstacles that the offering is designed to clear away is the ability to partake of sacred foods in the Temple. As this is not pertinent in the absence of a standing Temple, it detracts nothing from the convert's otherwise full entry to his new people. When the Temple is restored, the convert will have the opportunity to have that final obstacle removed and this last remaining issue will be resolved.

Given that the convert has no control over the fate of the Temple, as long as the Temple remains unbuilt, the convert is absolved of any responsibility.

In an allegorical sense, what we have just discussed not only applies to a formal convert, but to every Jew.

Just as we know that the Giving of the Torah is an ongoing act – we refer to G d as the Giver of the Torah in the present tense – likewise our entry into the Jewish people is not a one-off event. In the words of the sages: "Each day it should be in your eyes as if today you entered into a covenant with Him."6

Our own entry to the covenant may feel imperfect, as we are not free of all obstacles and imperfections. We are therefore reassured that our part in the covenant is full and complete, even if we still have more to do to achieve full purification.

Adapted from Likkutei Sichot vol. 26, Mishpatim III (pg. 160-166)**.**

Footnotes:

1. Maimonides Hilchot Issurei Bi'ah 13:1-4.

2. Numbers 15:15.

3. Maimonides Hil Mechuserai Kapparah 1:2.

4. Interestingly, there were two famous converts from that era named Ovadiah, one from Christianity and one from Islam. Read more about them here.

5. Teshuvot HaRambam vol 2.

6. Deuteronomy 27:9.

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https://www.chabad.org/parshah/article_cdo/aid/5031459/jewish/Did-Maimonides-Accept-Contemporary-Converts-as-Jewish.htm

Be a Spiritual Doctor

By Rabbi Moshe Wisnefsky * © Chabad 2022

Physical and Spiritual Physicians

> *If someone injures someone else, the injurer must pay for the injured party's complete cure.*
> (Exodus 21:19)

Whenever we are ill, G-d requires us to seek the help of qualified physicians and follow their instructions. Likewise, G-d has empowered physicians to heal the sick. But whereas doctors are merely encouraged to heal whoever is sick, they are obligated to try to save someone's life when it is threatened.

Just as there are both life-threatening and non-life-threatening bodily illnesses, so it is with spiritual "illnesses." Spiritually, a person is in "mortal danger" when his condition has begun to affect his ability or desire to fulfill the Torah's commandments, since it is through our performance of the commandments that our spiritual vitality flows into us.

The rules pertaining to a physical doctor also apply to a spiritual "doctor" — i.e., anyone who is capable of helping someone who is spiritually "ill." When someone is suffering from a minor spiritual "ailment," we are encouraged to offer spiritual assistance. But when someone is in spiritually "mortal danger" — i.e., his fulfillment of G-d's commandments is threatened — we are obligated to offer assistance, not allowing any other considerations to get in the way.

* — from *Daily Wisdom*

Gut Shabbos,

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Likutei Divrei Torah

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Covenant and Conversation
Rabbi Jonathan Sacks, z"l

We will do and we will hear

Two words we read towards the end of our parsha – na'aseh ve-nishma, "We will do and we will hear" – are among the most famous in Judaism. They are what our ancestors said when they accepted the covenant at Sinai. They stand in the sharpest possible contrast to the complaints, sins, backslidings and rebellions that seem to mark so much of the Torah's account of the wilderness years.

There is a tradition in the Talmud[1] that God had to suspend the mountain over the heads of the Israelites to persuade them to accept the Torah. But our verse seems to suggest the opposite, that the Israelites accepted the covenant voluntarily and enthusiastically:

Then [Moses] took the Book of the Covenant and read it to the people. They responded, "We will do and hear [na'aseh ve-nishma] everything the Lord has said." (Ex. 24:7)

On the basis of this, a counter tradition developed, that in saying these words, the assembled Israelites ascended to the level of the angels.

Rabbi Simlai said, when the Israelites rushed to say "We will do" before saying "We will hear," sixty myriads of ministering angels came down and fastened two crowns on each person in Israel, one as a reward for saying "We will do" and the other is a reward for saying "We will hear."

Rabbi Eliezer said, when the Israelites rushed to say "We will do" before saying "We will hear" a Divine voice went forth and said: Who has revealed to My children this secret which only the ministering angels make use of?[2]

What, though, do the words actually mean? Na'aseh is straightforward. It means, "We will do." It is about action, behaviour, deed. But readers of my work will know that the word nishma is anything but clear. It could mean "We will hear." But it could also mean, "We will obey." Or it could mean "We will understand." These suggest that there is more than one way of interpreting na'aseh ve-nishma. Here are some:

[1] It means "We will do and then we will hear." This is the view of the Talmud (Shabbat 88a) and Rashi. The people expressed their total faith in God. They accepted the covenant even before they heard its terms. They said "we will do" before they knew what it was that God wanted them to do. This is a beautiful interpretation, but it depends on reading Exodus 24 out of sequence. According to a straightforward reading of the events in the order in which they occurred, first the Israelites agreed to the covenant (Ex. 19:8), then God revealed to them the Ten Commandments (Ex. 20), then Moses outlined many of the details of the law (Ex. 21-23), and only then did the Israelites say na'aseh ve-nishma, by which time they had already heard much of the Torah.

[2] "We will do [what we have already been commanded until now] and we will obey [all future commands]." This is the view of Rashbam. The Israelites' statement thus looked both back and forward. The people understood that they were on a spiritual as well as a physical journey and they might not know all the details of the law at once. Nishma here means not "to hear" but "to hearken, to obey, to respond faithfully in deed."

[3] "We will obediently do" (Sforno). On this view the words na'aseh and nishma are a hendiadys, that is, a single idea expressed by two words. The Israelites were saying that they would do what God asked of them, not because they sought any benefit but simply because they sought to do His will. He had saved them from slavery, led and fed them through the wilderness, and they sought to express their complete loyalty to Him as their redeemer and lawgiver.

[4] "We will do and we will understand" (Isaac Arama in Akeidat Yitzchak). The word shema can have the sense of "understanding" as in God's statement about the Tower of Babel: "Let us, then, go down and confound their speech there, so that they shall not understand [yishme'u] one another's speech" (Gen. 11:7). According to this explanation, when the Israelites put 'doing' before 'understanding', they were giving expression to a profound philosophical truth. There are certain things we only understand by doing. We only understand leadership by leading. We only understand authorship by writing. We only understand music by listening. Reading books about these things is not enough. So it is with faith. We only truly understand Judaism by living in accordance with its commands. You cannot comprehend a faith from the outside. Doing leads to understanding.

Staying with this interpretation, we may be able to hear a further and important implication. If you look carefully at Exodus chapters 19 and 24 you will see that the Israelites accepted the covenant three times. But the three verses in which these acceptances took place are significantly different:

The people all responded together, "We will do [na'aseh] everything the Lord has said." (Ex. 19:8)

When Moses went and told the people all the Lord's words and laws, they responded with one voice, "Everything the Lord has said we will do [na'aseh]." (Ex. 24:3)

Then [Moses] took the Book of the Covenant and read it to the people. They responded, "We will do and hear [na'aseh ve-nishma] everything the Lord has said." (Ex. 24:7)

Only the third of these contains the phrase na'aseh ve-nishma. And only the third lacks a statement about the people's unanimity. The other two are emphatic in saying that the people were as one: the people "responded together" and "responded with one voice." Are these differences connected?

It is possible that they are. At the level of na'aseh, the Jewish deed, we are one. To be sure, there are differences between Ashkenazim and Sefardim. In every generation there are disagreements between leading poskim, halachic authorities. That is true in every legal system. Poor is the Supreme Court that leaves no space for dissenting opinions. Yet these differences are minor in comparison with the area of agreement on the fundamentals of halachah.

This is what historically united the Jewish people. Judaism is a legal system. It is a code of behaviour. It is a community of deed. That is where we require consensus. Hence, when it came to doing – na'aseh – the Israelites spoke "together" and "with one voice." Despite the differences between Hillel and Shammai, Abaye and Rava, Rambam and Rosh, R. Yosef Karo and R. Moshe Isserles, we are bound together by the choreography of the Jewish deed.

At the level of nishma, understanding, however, we are not called on to be one. Judaism has had its rationalists and its mystics, its philosophers and poets, scholars whose minds were firmly fixed on earth and saints whose souls soared to heaven. The Rabbis said that at Sinai, everyone received the revelation in his or her own way: "And all the people saw" (Ex. 20:15): the sounds of sounds and the flames of flames. How many sounds were there and how many flames were there? Each heard according to their own level of understanding what they were experiencing",

and this is what it means when it says (Ps. 29:4) "the voice of the Lord in power, the voice of the Lord in majesty.[3]

What unites Jews, or should do, is action, not reflection. We do the same deeds but we understand them differently. There is agreement on the na'aseh but not the nishma. That is what Maimonides meant when he wrote in his Commentary to the Mishnah, that "When there is a disagreement between the Sages and it does not concern an action, but only the establishment of an opinion (sevarah), it is not appropriate to make a halachic ruling in favour of one of the sides."[4]

This does not mean that Judaism does not have strong beliefs. It does. The simplest formulation – according to R. Shimon ben Zemach Duran and Joseph Albo, and in the twentieth century, Franz Rosenzweig – consists of three fundamental beliefs: in creation, revelation and redemption.[5] Maimonides' 13 principles elaborate this basic structure. And as I have shown in my Introduction to the Siddur, these three beliefs form the pattern of Jewish prayer.[6]

Creation means seeing the universe as God's work. Revelation means seeing Torah as God's word. Redemption means seeing history as God's deed and God's call. But within these broad parameters, we must each find our own understanding, guided by the Sages of the past, instructed by our teachers in the present, and finding our own route to the Divine presence.

Judaism is a matter of creed as well as deed. But we should allow people great leeway in how they understand the faith of our ancestors. Heresy-hunting is not our happiest activity. One of the great ironies of Jewish history is that no one did more than Maimonides himself to elevate creed to the level of halachically normative dogma, and he became the first victim of this doctrine. In his lifetime, he was accused of heresy, and after his death his books were burned. These were shameful episodes.

"We will do and we will understand," means: we will do in the same way; we will understand in our own way.

I believe that action unites us, leaving us space to find our own way to faith.

[1] Shabbat 88a, Avodah Zarah 2b.
[2] Shabbat 88a.
[3] Mechilta 20:15b.
[4] Maimonides, Commentary to the Mishnah, Sanhedrin, 10:3.
[5] See Menachem Kellner, Dogma in Medieval Jewish Thought (1986); Marc Shapiro, The Limits of Orthodox Jewish Theology (2011) and Changing the Immutable (2015).
[6] "Understanding Jewish Prayer", Authorised Daily Prayer Book, Collins, 2006, pp20-21; The Koren Siddur, Koren Publishers Jerusalem Ltd., 2006, pp. xxxi – xxxii

The Person in the Parsha
Rabbi Dr. Tzvi Hersh Weinreb

Deeds Done in Doubt

My wife and I moved to the Jewish community of Baltimore almost fifty years ago. The fond memories we have of the time we spent there begin with our first Shabbat in town. It was then that I met two special gentlemen.

Like any newcomer to a new neighborhood, I sampled several of the nearby synagogues that Shabbat. I entered one of them late in the afternoon, just before the modest "third meal," seudah shlishit. Two older men, at least twice my own age, motioned to me that there was a vacant seat across the table from them. I sat down and they welcomed me very warmly.

We exchanged introductions, and I learned that they were both Litvaks, Jews from Lithuania, who had had the good fortune to flee Eastern Europe in time. As devout Jews, they saw their good fortune as divine providence.

They invited me to return the following week. They had discovered that I listened to the conversation, not out of mere courtesy, but as someone sincerely interested in their story.

After that first Shabbat, I spent quite a few "third meals" in their company. I now wish that I had somehow kept a written record of all of those precious conversations. After they both passed on, I forced myself to record from memory at least some of the tales they had told. I occasionally peruse those notes with nostalgia, and with a tear or two.

I remember the anecdotes they told me about their encounters with the great early twentieth century sage, Rabbi Yisrael Mayer Kagan, of blessed memory. Many today are not familiar with that name. That is because they know him as the author of his famous book, Chafetz Chaim. He is so identified with that masterpiece that he is referred to as "the Chafetz Chaim," as if he was his book!

My two senior citizen friends adamantly insisted that that particular book was not his most important work. That book focuses on what its author saw as the dominant sin of his generation, namely malicious gossip, lashon hara. Personally, I have always felt that he was absolutely right. In fact, I think that with the advent of electronic communication, the problem of malicious gossip has been magnified and exacerbated far beyond what Rabbi Yisrael Mayer Kagan could have imagined almost a century ago.

But my newfound friends disagreed with me. They made me aware of another work by the author of Chafetz Chaim. Their candidate for their mentor's masterpiece is entitled Ahavat Chesed, "Loving Kindness." Had they had their way, Rabbi Kagan would not be known as "the Chafetz Chaim," but rather as "the Ahavat Chesed," the "Lover of Kindness."

What, you ask, is the subject of this second book, the one preferred by my two elderly tablemates?

The book is about the acts that one is commanded to perform in order to assist others who are in need. Charity, for example, is one such deed, and the laws of charity comprise a major section of Ahavat Chesed. Hospitality is another such deed, as is giving others helpful advice. But a major portion of the work is dedicated to a mitzvah which is less well known, but which is promulgated in this week's Torah portion, Parshat Mishpatim (Exodus 21:1-24:18). The following are the verses to which I refer:

"If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them. If you take your neighbor's garment in pledge, you must return it to him before the sun sets; it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate." (Exodus 22:24-26).

This beautiful passage portrays an act of compassion. The image of a totally destitute person who has but one change of clothing is heartrending. The sensitivity to his sleeplessness is exquisite. We can ourselves hear his cries in the night to the Lord.

But there is one word that the earliest commentators find absolutely puzzling. It is the first word in the passage, "If." If? If you lend money to my people? Shouldn't it read, "I command you to lend money to My people," or, "You must lend money to My people."?

It is this question that leads Rashi to cite Rabbi Ishmael's teaching in the Talmudic tractate Bava Metzia: "Every 'if' in the Torah expresses an act which is optional, except for three instances in which 'if' expresses an act which is mandatory—compulsory—and this is one of the three." This "if" is to be translated as "you must."

But the question remains. Why use the word "if" at all? Why does Torah not simply tell us that we must lend money to those who need it? Why the "if"?

For one answer to this question, I draw upon the teaching of Rabbi Yechezkel of Kuzmir, a nineteenth century Hasidic master. He, in turn, asks a question upon the following Talmudic text:

"Rabbi Pinchas ben Yair was on a mission to try to redeem several Jews who were held captive. His route was blocked by the river Ginai. He said to the river, 'Split your waters so that I might pass through!' The river refused, saying, 'You are on your way to do the will of your Maker, and I am on my way to do the will of my Maker. You might succeed,

but you might not succeed! But I will certainly succeed! I simply need to continue to flow.'"

The river seems perfectly justified. All he has to do is follow nature's course and flow downstream as his Maker created him to do. But Rabbi Pinchas, for all of his good intentions, could not be certain of success. Indeed, the odds are that he would fail. Why should the river yield?

But Rabbi Pinchas simply ignored the river's reasonable argument. Instead, he harshly threatened the river, saying, "If you don't split for me, I will decree that not a drop of water shall ever again flow down your riverbed for all eternity!" The question remains: what right did the rabbi have to ignore the river's convincing argument?

Rabbi Yechezkel of Kuzmir answers: "The river's assumption is that a deed that is certain to be successful is more desirable to the Almighty than is a deed whose ultimate success is in doubt. But the spiritual insight of Rabbi Pinchas taught him otherwise. The Almighty cherishes the person who undertakes a mission which is risky and whose outcome is uncertain much more than the person who undertakes a mission which he knows will be blessed with success.

This, I would suggest, is why lending money to someone in need is, at least in one way, more desirable to the Almighty than simply giving a handout to the poor. When one gives food, for example, to a hungry person, he knows immediately that he has done a good deed. There is no element of doubt.

However, when one lends money to another, one never knows. Will the borrower postpone repayment? Will he default? Will the lender ever see his money back? Doing this kind of mitzvah comes with second thoughts and regrets. It is a mitzvah done in the throes of doubt and uncertainty.

The lesson taught by Rabbi Pinchas teaches the lender that the mitzvah he did with so much doubt and uncertainty is all the more cherished by the Almighty.

There are many mitzvah missions that we all undertake at great risks and with no guarantee that we will be successful in our efforts. Rabbi Pinchas ben Yair teaches us to deliberately pursue such mitzvot.

Hence, the passage in this week's Torah portion begins with the big "if." Moral actions are often "iffy." But that's all the more reason to engage in them. The risks are real, but the rewards are eternal.

Torah.Org: Rabbi Yissocher Frand

The Ear That Heard at Sinai

The halacha is that if the eved ivri in fact says "I love my master, my wife, and my children—I do not want to go out free" then the master brings him to the doorpost and pierces his ear with an awl and he becomes a slave "in perpetuity." Rashi famously comments in the name of Rav Yochanan ben Zakkai, "the ear that heard at Sinai 'Thou shalt not steal' and went ahead and stole gets pierced with an awl!" This explains why it is the ear rather than the arm, the toe, or any other body part that pays the price, so to speak, in this process of the master making the eved ivri, whose term of service was six years, remain a slave until the Jubilee year.

The Sefas Emes asks – Is it the ear's fault? The ear is merely a receptacle that hears. The problem is not with the ear. The problem is with the heart or with the brain that processes the message heard by the ear! Why pick on the ear?

Of course, we can say simply that it is not possible to pierce the heart or the brain and have the slave remain alive. That is true. Perhaps we could get around that problem, but certainly piercing the ear seems to be a very superficial choice of an organ to pay the price for this Jew's act of theft!

The Sefas Emes answers that the message here is that the word of G-d, "Do not steal" entered the ear, but it stayed in the ear. That is as far as it went. Or, to use a colloquial expression "It went in one ear and went out the other." People can hear something that remains nothing more than sound waves that penetrate the ear but do not travel to the heart, to the brain, to the soul. That is not what a human being is supposed to do with the message of G-d.

In Yiddish, if you want to ask "Do you understand?" you say "ihr hert?" (do you hear?). Among Yeshiva students, many times someone asks someone else "Do you hear what I am saying?" Try that in the secular world! In the world at large, if you tell someone "I hear" he will assume you are telling him that you are not deaf. In Yiddish "herrin" means "ich farshtei" (I understand). Shmia does not mean the physical act of hearing. It means understanding!

In the famous pasuk "Shma Yisrael Hashem Elokeinu Hashem Echad." the translation, "Hear oh Israel…" is a misinterpretation. It really means "listen oh Israel." There is a difference in English between "you hear" and "you listen." The problem of "ozen she'shama b'Sinai" is that it just heard "Thou shalt not steal" but it did not listen!

The Sefas Emes points to the pasuk at the beginning of last week's parsha – "Vayishma Yisro…." What does "Vayishma Yisro" mean? It means more than just that he heard. He understood what was happening over here. That is the difference between Yisro and Iyov. The Gemara says that three parties heard Pharaoh's infamous scheme (oso eitzah): Yisro, Bilaam and Iyov. Bilaam suggested the plan and his end was that he was killed by the sword. Iyov, who kept quiet, wound up being plagued with punishments. Yisro fled. Why did he flee? It is because he was a Shomea. That does not mean he was a "hearer". It means he was a listener. He understood what was happening here, and it made an impression upon him. It made an impression upon him that propelled him on his path that eventually brought him to Judaism.

When someone hears but it does not penetrate, it is an example of "Ozen she'shama b'Sinai" – it only remained within the ear!

How Was This Rosh Yeshiva Different From All Other Roshei Yeshiva?

There is a pasuk in this week's parsha that talks about how careful we need to be with widows and orphans. "You shall not persecute any widow or orphan. If you will persecute them, for if they will cry out to Me, I shall surely hear their cry." [Shemos 22:21-22] In the past, We have said a famous vort from the Kotzker Rebbe that the threefold redundant appearance of verb forms in this pasuk (Aneh/Sa'aneh; Tza'ok/Yitzak; Shamoa/Eshma) indicates that any feeling of hurt that a widow or orphan senses is always compounded. They always feel "If my father/husband would still be alive, this would not be happening to me." Therefore, the pain anyone inflicts on them is doubled. As a result, Hashem will "hear their cries" and impose a double punishment on the perpetrators.

I would just like to share an incident I heard involving Rav Nosson Tzvi Finkel, zt"l. It has been a long time since the passing of a Rabbinic personage had made such a great impression on Klal Yisrael as that of the passing of the late spiritual head of the Mir Yeshiva in Jerusalem (November 2011). The number of Hespedim that were offered in Yeshivas and Jewish communities all over the world for Rav Nosson Tzvi was unprecedented. That is because he was a person who had an incredible impact on Klal Yisrael. The reaction of the loss that people felt, and still feel, to his death was mind-boggling.

One on his Talmidim gave a eulogy for him in a certain yeshiva. In relating the incredible acts of kindness that Rav Nosson Tzvi engaged in, he told over the following story:

There was a student of the Mir—a man who was already married and had a family—who passed away at a relatively young age, leaving over a widow and orphans. Rav Nosson Tzvi was very close to this man and decided that he would try, in effect, to adopt this man's sons. He invited them to treat him (Rav Nosson Tzvi) like they would treat a father. This was a family that lived in America, but Rav Nosson Tzvi told the boys that they should write to him—not only their Torah thoughts, but they should correspond with him and keep him abreast of all their personal affairs and activities. When the boys got older, they came

to Eretz Yisrael and Rav Nosson Tzvi found each one an appropriate Yeshiva. Over many years, he developed a strong relationship with these orphans and tried to act as a long-distance father to them.

This is what this former student of the Mir told over in his eulogy for the Mir Rosh Yeshiva. After he spoke, a young man from the audience came over to him and told him "The story you related is correct. I can verify the facts. However, that is not the entire story. The rest of the story is that the man who passed away had four sons and he also had a daughter —a little girl at the time of her father's death. She was the youngest member of the family. She felt left out. She was not going to write a "shtickle Torah" to Rav Nosson Tzvi. What can a young little girl discuss with a great Rosh Yeshiva? She felt neglected.

Rav Nosson Tzvi heard about this and he sent her a letter. But he did not merely send her a generic letter. He had someone draw a heart and, in the heart, he wrote her a note. The person told the Rav who was eulogizing the Mir Rosh Yeshiva: "How do I know this story? It is because that little girl is now my wife." This heart shaped message from Rav Nosson Tzvi Finkel gave that young girl such inspiration and such a positive feeling that it rejuvenated her spirit.

Do you know another Rosh Yeshiva on the face of this earth who would send a message inscribed in a heart to a little girl? It is incredible! One of the biggest Rosh Yeshivas in the world sends a heart to a little girl! I have heard dozens of stories about Rav Nosson Tzvi over the past several months, but to me, that story tops them all. To cheer up a little orphan daughter of a close student of his—there was no question of his own honor, proper protocol, or what might people say. He had the ability to rejuvenate the dispirited, which is the power to be mechayei meisim! It is a beautiful story.

Dvar Torah
Chief Rabbi Ephraim Mirvis

Should we come to see or to be seen?
In Parshat Mishpatim the Torah presents us with the mitzvah of the three pilgrim festivals, Pesach, Shavuot and Sukkot – times when the people of Israel would gather in Jerusalem, in the temple before Hashem. The way the Torah puts it is:
'Shalosh peamim beshana yeira'eh.' – 'Three times a year he shall be seen.'

Our sages notice that the word 'yeira'eh' – 'he shall be seen' – has the same lettering as 'yireh' meaning 'he shall see'. Therefore the Mishna, at the commencement of Masechet Chagigah, tells us that if a person is sadly blind and therefore cannot see what's happening in Jerusalem, he is exempt from this mitzvah.

The Rambam enquires as to what happens if one has only partial sight, that is, if one can only see with one eye. His conclusion is that we are required to have 're'iah sheleimah,' total vision, and therefore sadly, if a person is blind in one eye, he too is exempt. The Rambam explains that this is because it is so important that one should see for oneself the beauty, splendour, and majesty of Jerusalem in order to appreciate the privilege that one has.

Now I believe that all of this is exceptionally relevant for us right now. So many of us have not been in a shul for a good while on account of coronavirus and we are looking forward to the time when we shall return. When that day arrives and we are able to fill our shuls again, why will we be there?

For some it might be a case of wanting to be seen. We would like to be noticed. We would want people to recognise that we are being loyal to the community. That is a very good reason.

But there is a better reason. The better reason is because we want to see for ourselves, because we appreciate the beauty, grandeur and privilege we have of 'tefillah b'tzibbur,' to daven with a community. We appreciate the ruchnius and the presence of Hashem, and we want to connect to Him in the strongest possible way through being part of that minyan. As our shuls become vibrant and full once again, let it not just be a case of 'yeira'eh' – in order that we should be seen. Let it be 'yireh' – because we don't want to miss out; we want to see it for ourselves.

Rabbi Dr. Nachum Amsel
Encyclopedia of Jewish Values*

Mishpatim – Returning Found Objects
In Western society, when people hear a story of a person who returned an object of great value, the common reaction is 1) great surprise, 2) a comment about the unusually high moral quality of this individual who returned the object and 3) a belief that this person should receive some type of reward for acting "beyond the call of duty." Judaism has an entirely different approach and expected level of morality regarding returning lost objects.

A Mitzvah-Commandment
Unlike western society, Judaism regards returning found objects as a Mitzvah and not merely a noble deed. What does this signify? In a Jewish society not only is it not unusual for an object to be returned, but it is the expected norm, and even demanded as a Torah obligation (Deuteronomy 22:1). In many societies, there are laws requiring someone to return a found object once it is picked up – only you cannot keep it for yourself. But no other culture other than a Jewish society says that the individual must pick up the lost object to begin with. Judaism legislates that a person cannot pass by the object and do nothing, and the Torah repeats this commandment again for emphasis two verses later (Deuteronomy 22:3). Therefore, a Jew cannot say that "it's not my problem" or "let someone else worry about it." A Jew must pick it up.

In our Parsha, the Torah highlights this obligation regarding this Mitzvah and makes it even more powerful. While many people are aware of the commandment to help ease of the pain of an animal with a burden that belongs to one's enemy (Exodus 23:5), the verse immediately before this one says (23:4) "If you meet your enemy's ox or his donkey going astray, you must return it to him." Not only does the Torah not look at the person who returns the found object as a hero, it obligates every individual to return objects lost by one's enemy!! Most people feel more of a moral obligation to pick up and return a lost object if they know the owner personally. Therefore, the Torah in Devarim-Deuteronomy specifically says that even if you do not know the owner, you still must retrieve the lost article (Deuteronomy 22:2) and in our Parsha the Torah obligates you even when it is the person you loathe.

Rambam (Maimonides, Hilchot Gezaila Ve'aveida 11:2) rules that one who does not pick up and return an object violates two separate sins. Even though a Jew is not technically obligated to return a found object to a non-Jew, Jewish law would require even more of an obligation to return it to a non-Jew than to return to a Jew, because of the aspect of desecrating God's name, since Jews today do not discriminate between who lost the objects (Maimonides, Hilchot Gezaila Ve'aveida 11:3).

The Special Importance of This Mitzvah
There are numerous statements in the sources showing that this Mitzvah is more significant than other commandments. The Talmud says (Pesachim 113a) that there are three categories of people who God praises from heaven each and every day. One of them is the poor person who returns found objects. Rambam rules (Maimonides, Hilchot Teshuva 4:3) that he who picks up a lost object but does not return it, is in the most severe category of one who is excluded from doing repentance for this sin (since it is impossible to repent if you are not aware against whom you sinned).

May a Jew Accept a Reward for Returning the Object?
- After keeping all the Jewish laws regarding returning an object, if the owner wishes to give the finder a reward, may the Jew accept it? Normally, Judaism believes that a Jew may never receive a monetary reward for doing a Mitzvah which he or she is commanded to do (Tur, Shulchan Aruch, Yoreh Deah 336), since the Jew is getting "paid" spiritually for each Mitzvah anyway and should be performed for any ulterior motive. However, a person certainly is entitled to and may accept money for the time he or she took away from his or her work in returning the object (Shulchan Aruch, Choshen Mishpat 265:1). However, the Tiferet Yisrael commentary (Tiferet Yisrael, commentary to the Mishnah, Nedarim 4:2) writes that

whenever it is the community practice to give rewards for returning objects, he or she may indeed accept a reward. Basing himself on Maimonides' commentary to the same Mishna, he says that if it such a society that needs to give rewards, to inspire people to return objects, as anti-Jewish as this concept is, one may, in that society, accept a reward. Thus, he would say that in almost every country today, a person may take a reward.

Must all Objects Be Picked Up by all Individuals?
Although the importance of this Mitzvah has been discussed, and the clear prohibition against not picking up a lost object has been demonstrated, there are certain times and certain exceptions allowing a Jew to neglect a lost object. If the value of the lost object is "less than a penny," one need not pick up the object and return it (Maimonides, Hilchot Gezaila Ve'aveida 11:12). But if it has a "greater worth than a penny." even worth a few cents, one would be obligated to pick up the lost object and return it. Judaism defines stealing as keeping an item worth even the smallest amount, if it is not yours (Maimonides, Hilchot Genaiva 1:1 and 1:2).

There are some individuals for whom bending down and picking up an object would be an affront to their dignity (Berachot 19b), another important concept in Judaism (see chapter about Human Dignity). A Kohen (priest) is not permitted to be exposed to spiritual impurity, and therefore need not go into a graveyard to retrieve a lost object. An old man need not stoop to retrieve an object, and, similarly, a Torah scholar need not indignify himself to bend down and pick up a lost object (Maimonides, Hilchot Gezaila Ve'aveida 11:13 and Shulchan Aruch, Choshen Mishpat 263:1). Rambam does add a caveat, however, stipulating that if the old man or Torah scholar would pick it up if the lost object were his own to begin with, then he must pick it up and return it to others. Even when there is no real obligation to pick up an object and return it, nevertheless, Rambam states (Maimonides, Hilchot Gezaila Ve'aveida 11:17) that one who does pick up such an object is doing the "good and right thing," and should try to do it, whenever possible.

The Reasoning Behind the Mitzvah
Sefer Hachinuch (Sefer HaChinuch, Mitzvah #538) gives a practical reason for this Mitzvah. Society can exist more cohesively when lost objects are returned. People and society will be more productive economically if lost objects do not remain lost but are returned to their owners. Abarbanel (Abarbanel commentary to Deuteronomy 22:1-3) says that the act of returning an object will cause people to feel compassion and consideration for fellow human beings. People will feel better about each other in general, and this feeling will spread to all aspects of man's relationship to man. Alshich (Alshich commentary on Maimonides 22:1-3) says that this Mitzvah is the actual part of the fulfillment of the commandment "You shall love your neighbor as yourself" (Leviticus 19:18). God commands us to treat our fellow human beings as we would treat ourselves, and the returning of lost objects converts this feeling into action. With all these explanations taken together, we can imagine how society would change for the better if all people indeed were sensitive to lost objects and constantly retrieved them. The feelings of good that would be engendered, the feeling of knowing that each time an item is lost, there is a great chance that it will be returned, would certainly make people feel better in general. The inevitable sensitivity for the needs of others that would inevitably develop would spread to all areas of man's relationship to his fellow man.

Sounds Too Good To Be True?
Given the general selfishness of people today, is it realistic to ever hope that a society could function with these laws? Is there any society that has actually lived by this moral code? In most Yeshivas (House of Higher Torah learning) personal good conduct is stressed, and living, not merely learning the Torah, is treated very seriously. In many of today's Yeshivot, the sensitivity to lost objects can readily be seen. For example, in some Yeshivot, where tokens are purchased for the washing machine, it is not unusual to see a token scotch-taped to the public bulletin board, asking the owner who list it in such a place on a certain day to claim it. Next to it may be a Shekel coin or dollar bill, with a similar note written. These items sometimes remain there for days until the owner sees the sign and reclaims his token or money. Thus, this system can work if everyone in each society cooperates and develops the sensitivity needed to make it work.

All people have lost objects at some point in their lives. When a person loses something, especially if it is of objective of high value or personally valuable, that person feels bad, especially if there is little chance of hoping to recover it. If, when seeing someone else's lost object, each individual remembers how it felt when he or she lost an object, it could inspire a person to pick up the object and try to return it to someone else. If just a few people started returning objects, the good feeling engendered could spread until all of society may adopt this practice. Like in cities today where the streets are kept spotlessly clean, citizens and visitors alike are hesitant to litter, the same psychology would also encourage others to return objects, if everyone started doing it. It could work.
*** This column has been adapted from a series of volumes written by Rabbi Dr. Nachum Amsel "*The Encyclopedia of Jewish Values*" available from Urim and Amazon. For the full article or to review all the footnotes in the original, contact the author at nachum@jewishdestiny.com**

OU Dvar Torah

When the Torah Does Not Say What It Means - Rabbi Shmuel Goldin
Commenting on one of the most well-known legal passages in the Torah, the rabbis overrule the seemingly clear intent of the text. The Torah states, in its discussion of the laws of personal injury: "…And you shall award a life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, a burn for a burn, a wound for a wound, a bruise for a bruise."

In the book of Vayikra, the text is even clearer: "And if a man shall inflict a wound upon his fellow, as he did so shall be done to him. A break for a break, an eye for an eye, a tooth for a tooth; as a man shall inflict a wound upon a person, so shall be inflicted upon him."

The rabbis in the Talmud, however, maintain that the Torah never intended to mandate physical punishment in personal injury cases. Instead, they say, the text actually authorizes financial restitution. The oft-quoted phrase "an eye for an eye," for example, means that the perpetrator must pay the monetary value commensurate with the victim's injury. All the other cases cited in these passages are to be understood similarly, in terms of financial compensation.

So great is the gap between the face value of the Torah text and the legal conclusion recorded in the Talmud, that the Rambam, in his halachic magnum opus the Mishneh Torah, feels the need to stress that the decision to levy monetary compensation in personal injury cases is not the result of later rabbinic legislation: "All this is law given to Moshe in our hands, and thus did our ancestors rule in the court of Yehoshua and in the court of Shmuel from Rama and in each and every court which has stood from the time of Moshe, our teacher, to this day."

In an unbroken tradition from the time of Revelation onward, the halachists insist that Torah law itself mandates financial restitution, not physical punishment, in cases of personal injury.

Questions
Why doesn't the Torah simply say what it means? Over the ages, the "eye for an eye" formula has been cited by critics as proof of the vengeful, primitive nature of Mosaic law. If the Torah never meant to mandate physical punishment in cases of personal injury, why wasn't the text more clearly written?

A great deal of misunderstanding, misinterpretation and trouble could have been avoided had the Torah simply stated, "The court shall levy the appropriate compensatory payment in cases of personal injury."

Approaches
A. An easily missed phrase in the Rambam's above-cited codification of the law provides a glimpse into the Torah's true intent: The Torah's statement "As a man shall inflict a wound upon a person, so shall be inflicted upon him" does not mean that we should physically injure the perpetrator, but that the

perpetrator is deserving of losing his limb and must therefore pay financial restitution.

Apparently the Rambam believes, as do many other scholars who echo the same sentiment, that the Torah confronts a serious dilemma as it moves to convey its deeply nuanced approach to cases of personal injury: using the tools at its disposal, how can Jewish law best reflect the discrepancy between "deserved" and "actual" punishment?

The gravity of the crime is such that, on a theoretical level, on the level of "deserved punishment," the case belongs squarely in the realm of dinei nefashot (capital law). The perpetrator truly merits physical loss of limb in return for the damage inflicted upon his victim. Torah law, however, will not consider physical mutilation as a possible punishment for a crime. The penalty must therefore be commuted into financial terms.

Had the Torah, however, mandated financial payment from the outset, the full gravity of the crime would not have been conveyed. The event would have been consigned to the realm of dinei mamonot (monetary crimes), and the precious nature of human life and limb would have been diminished.

The Torah therefore proceeds to express, with delicate balance, both theory and practice within the law. First, the written text records the "deserved punishment" without any mitigation: "…an eye for an eye, a tooth for a tooth…" In this way, the severity of the crime is immediately made clear to all. Then, however, the actual monetary punishment must also be conveyed, as well. Concerning this task, the Oral Law serves as the vehicle of transmission. The practical interpretation of the biblical passage – commuting the penalty into financial terms – is divinely revealed to Moshe. This interpretation is then preserved and applied in an unbroken transmission, from the time of Revelation onward.

Jewish law thus finds a way to memorialize both the "deserved" and the "actual" punishments within the halachic code.

B. A few sentences further in Parshat Mishpatim, an even more glaring example of the discrepancy between theory and practice in the realm of punishment emerges. In this case, however, both variables are recorded in the written text itself. As the Torah discusses the laws of a habitually violent animal, two conflicting consequences appear in the text for the very same crime.

The Torah states that, under normal circumstances, if an individual's ox gores and kills another human being, the animal is put to death but the owner receives no further penalty. Such violent behavior on the part of a domesticated animal is extremely rare and could not have been predicted.

If, however, the animal has shown clear violent tendencies in the past – to the extent that the owner has been warned yet has failed to take appropriate precautions – the Torah emphatically proclaims, "…The ox shall be stoned and even its owner shall die."

The matter, however, is not laid to rest with this seemingly definitive declaration. Instead, the text continues, "If a ransom shall be assessed against him [the owner of the violent ox], he shall pay as a redemption for his life whatever shall be assessed against him."

In this case, the written text itself seems bewilderingly contradictory. On the one hand, the Torah clearly states that the owner of a violent animal "shall also die." Then, however, the text offers the condemned man an opportunity to escape his dire fate through the payment of a financial penalty assessed by the court.

Nowhere else does the Torah allow avoidance of capital punishment through the payment of a "ransom." The very idea, in fact, is anathema to Jewish thought. In discussing the laws of murder, the Torah clearly states, "You shall not accept ransom for the life of a murderer who is worthy of death, for he shall certainly be put to death."

Why, then, if the owner of the ox is deserving of death, is he offered the opportunity to ransom his life?

To make matters more complicated, many authorities maintain that what the Torah seems to present as a choice really is not. The ransom payment is mandatory. No one is ever put to death as punishment for the actions of his violent animal.

In partial explanation, the Talmud does maintain that the death sentence mandated in this case refers to death "at the hands of heaven" rather than execution decreed by an earthly court. Monetary payment enables the owner of the ox only to escape a divine decree. No ransom would ever be accepted as an alternative to true capital punishment determined through due process of law, in a human court.

The question, however, remains: if the punishment in this case is uniformly monetary, why doesn't the Torah say so in the first place? Why pro-nounce a death sentence on the owner that will not actually be carried out, even at the hands of heaven?

Once again our questions can be answered by considering the distinction between "deserved" and "actual" punishment.

The Torah wants us to understand that, on a theoretical level, the owner of the ox deserves to die. His negligence has directly resulted in the loss of human life. On a practical level, however, this sentence cannot be carried out. Halacha only mandates capital or corporal punishment in cases of active crimes. Crimes of "uninvolvement," consisting of the failure to do something right, cannot carry such penalties in an earthly court. The owner who fails to guard his dangerous animal can only be fully punished through heavenly means.

There is, therefore, an available corrective, a way for the condemned man to escape the divine decree. God, Who "truly discerns the soul and heart [of man]," will forgive a perpetrator in the face of real penitence and change.

Through payment of the fine levied by the court, the animal's owner actively proclaims a newfound willingness to take responsibility for his past failure. In effect, he corrects the omission that led to tragedy by admitting his involvement in the crime. This admission, if heartfelt, suffices to avert a merciful God's decree.

Through carefully balancing the textual flow, the Torah manages to convey a complex, multilayered message of personal responsibility in a nuanced case of "uninvolvement."

Points to Ponder

The practice of studying and quoting passages from the biblical text "out of context" has become common, not only among those who seek to attack the divine authority and character of the Torah, but even among those who claim to respect it. Conclusions and lessons are often drawn from words and phrases in isolation, without attention paid to their surrounding framework.

As the above discussions clearly demonstrate, true Torah study must be contextual in the fullest sense of the word. Failure to consider context inevitably leads to misinterpretation and misrepresentation of the text.

Each phrase of the Torah must be analyzed against the backdrop of surrounding textual flow, other sources in the written text and related Oral Law. Only such complete, comprehensive study reveals the true depth and meaning of the biblical text. *[Excerpted from Rabbi Shmuel Goldin's 'Unlocking The Torah Text: An In-Depth Journey Into The Weekly Parsha- Shemot' co-published by OU Press and Gefen Publishers]*

Dvar Torah: TorahWeb.Org

Rabbi Michael Rosensweig

Aseret ha-Dibrot and the Concept of Brit

At the conclusion of Parshat Mishpatim, perhaps the most halachically diverse and wide-ranging of parshiyot, the Torah (24:12) records that Hashem invites Moshe to ascend the mountain to receive the comprehensive mesorah of Torah: "vayomer Hashem el Moshe alei eilai haharah veheyeh sham; vietnah lecha et luchot ha-even vehaTorah vehamitzvah asher katavti lehorotam." Chazal (Berachot 5a)

understood that these multiple references constitute diverse genre of Torah - "luchot ha-even- eilu aseret hadibrot, Torah- zu mikra, vehamitzavah- zu mishneh, asher katavti- zu neviim uketuvim, lehorotam- zu gemara, melamed she-kulam nitnu lemoshe misinai." It is striking that the "luchot ha-even", signifying the aseret ha-dibrot, is delineated discretely, though the ten commandments are obviously an integral component of Torah-mikra. This, and other evidence, indicates that aseret ha-dibrot have a dual status that is related to but also appears to transcend the fact that they were focal point of the Revelation itself. Indeed, the Talmud (Berachot 12a) reports that aseret ha-dibrot were incorporated into daily prayer until the fear of "taaromet ha-minim" (see Rashi, Geonim and responsa of Rambam, no. 263) determined its exclusion lest its singular status and stature be misconstrued as implying either greater axiological value or an exclusive Divine origin relative to the rest of the Torah. The fact that the aseret ha-diborot are sometimes read as individual pesukim with taam tachton, consistent with the rest of mikra, but also occasionally is rendered as dibrot by means of taam elyon, further accentuates its dual status. [see Magen Avraham, introduction to Orach Chaim 494].

What accounts for this special stature? Rashi on this very verse (See Ramban and Maharal, Gur Aryeh), cites the view of R' Saadia Gaon that the ten commandments encapsulate all of the 613 mitzvot. Rashi (20:1), in his introductory comments to the aseret hadibrot themselves, conveys the insight of the Mechilta that the aseret hadibrot, apparently wide ranging and discrete, were themselves unified and integrated by the inimitable Divine utterance- "melamed sheamar Hakadosh Baruch Hu aseret hadibrot bedibur echad mah shei efshar leadam lomar kein. Im kein mah Talmud lomar od Anochi ve-lo yihyeh' shechazar upiresh al kol dibur vedibur bifnei atzmo." The Mechilta and R' Saadia highlight that the aseret hadibrot have a crucial integrative and mediating function, notwithstanding and because of the independence and divergence of each mitzvah. Precisely this capacity to place the comprehensive substance and divergent genres of Torah in proper perspective as the single and singular will of Hashem distinguishes aseret hadibrot as a discrete genre, even as it is necessarily also an integral part of mikra. This integrative and mediating role may also explain why aseret ha-dibrot precedes "Torah-zu mikra" in the order of genres, in addition to its historical priority. Moreover, the aseret ha-dibrot establish at the outset the unity theme that defines the purpose of this multiple delineation- "melamed she-kulam nitnu le-Moshe miiSinai".

It is conceivable that this integrative motif also uniquely qualifies the aseret ha-dibrot as the cornerstone of the foundational brit with Hashem. Indeed, the Torah depicts it in precisely these terms (Devarim 4:13): "vayaged lachem et berito asher tzivah etchem laasot, aseret hadevarim; vayichtevaim al shenei luchot avanim." The luchot are commonly referred to as "luchot habrit" for this reason. On this basis, Rav Chaim of Brisk (Rinat Yitzchak, Shemot 24:12) explained a difficult passage in the shemonah esreh of Shabbat shacharit: "ushetei luchot avanim horid beyado vekatuv bahem shemirat Shabbat vechein katuv betoratecha - veshameru Benei Yisrael et haShabbat laasot et haShabbat ledorotam brit olam..." While this formulation reinforces the impression that the luchot constitute a genre discrete from Torah, it also spotlights some link between the two parshiyot of Shabbat specifically invoked - one by virtue of its location in the aseret hadibrot, the other specifically explicated. Rav Chaim explained that the common theme is Shabbat's status as a brit- explicated in the ve-shameru (Shemot 31:) verses- "brit olam", and implicit by its very inclusion in the aseret ha-dibrot, as previously noted. [See, also, Rambam, Hilchot Shabbat 30:15] The hallmark of "brit"-covenant is precisely the mediation and integration of mutual multiple commitments that stem from and further enhance a reciprocal bond that is more than the sum of its parts, and that is elevated and enriched by both its breadth and unity.

Indeed, for this reason, brit milah achieves its singular status in kedushat Yisrael. It is no coincidence that milah, atypically among mitzvot, requires an additional berachah beyond the "al ha-milah" that focuses on the specific mitzvah. The second berachah, "lehachniso be-briso shel Avraham Avinu" conceivably refers to the full range of diverse mitzvot that stem from but are also balanced and integrated by the brit milah covenant! [I hope to expand elsewhere on this theme according to the different halachic perspectives and to elaborate how the specific theme of milah - see Shabbat 106a- particularly embodies this dimension of brit. Rambam's controversial view regarding the delay of karet for neglecting milah is relevant to this perspective as well, as are other phenomena connected with this singular and foundational mitzvah.]

We may now further appreciate why the factor of "taaromet haminim" justified excluding aseret ha-dibrot from daily prayer. The very notion that valuing, cherishing the dibrot may be a catalyst for the (even relative) denigration of other dimensions of Torah was perceived as fundamentally incompatible with the unique status and function of this special cheftza shel Torah. Consistent with its own special character, not simply as a concession to other, external considerations, it was excised from the tefillah.

At the conclusion of Mishpatim, precisely because of its wide and diverse range, the Torah revisits the aseret hadibrot, and hints at its prominence as an independent Torah category-genre. By also emphasizing its prior role, the Torah projects the dibrot as the embodiment of principles that unify, organize, and even integrate the vast mesorah repository.

Torah.Org Dvar Torah
by Rabbi Label Lam

That's Way Too Costly

And if a person borrows [an animal] from his neighbor and it breaks a limb or dies, if its owner is not with him, he shall surely pay. (Shemos 22:13)

The Torah is not a history book and neither is it a law book. Rather it is a book of teaching which directs a man to fulfill his responsibilities to HASHEM, his neighbor and yes, himself. The Torah gifts us with formulas for figuring out when we are obligated to pay. There is nothing arbitrary about the Torah's approach to determining who pays whom. It is not a guilt trip but a reality check. Otherwise, life and situations can become easily clouded and confused even by well meaning people. How so?

Let's hearken back to an old-time principle mentioned explicitly in the Ten Commandments. It's not easy to understand what this law is doing there, especially in the top five. Honoring one's father and mother seems to be a primary instinct that comes installed in almost everyone. I can remember from my youth that the most brutal fights were prompted by a statement about somebody else's mother or father. That was the line in the sand that nobody dared cross without expecting an aggressive response. So why the command?

Here are two approaches. If you find yourself walking in a big city like Manhattan and you are people watching, you might notice two different types of pedestrians. Some people walk with their heads facing forward while others have their heads vaulted to the sky where they are focusing on the towering heights of the skyscrapers. Now who are these two distinct groups? The ones who walk along casually looking out horizontally are native New Yorkers. The ones with their eyes looking up are obviously tourists.

The ones who live in the big city all the time hardly notice or appreciate the enormity of the structures around them, because they grew up with them all their lives. So too it's hard to recognize the virtues of parents, even truly great parents. They are part of the furniture of our daily existence. We become inured to the magnitude of their specialness.

I remember whispering to a little boy at a Shabbos table that he should take care to listen to the Rosh HaYeshiva when he asks him to sit in the seat that was assigned to him. The six-year-old looked up at me and said, "Rosh HaYeshiva?! He's my father!"

Secondly, there's a well-known phenomenon. It may be more-true about me or any of us to a greater and lesser degree. The ones who pay the least complain the most. Why is that so? When we will understand this then we will also understand why the Torah needs to command us to honor our parents.

The psychological principle is that people don't like to feel indebted. Staring at bills is very uncomfortable. Who do we owe more in life than our parents!? Who has done more for us than our parents!? To whom are we more indebted than our parents!? So, we subconsciously and foolishly look for faults in those individuals and institutions to whom we owe the most in order to void, cancel, and unbridle ourselves from the debt we owe.

People find minor faults to excuse themselves from the need to pay. The ones who pay the least end up complaining the most, so as to obviate the need to pay. It must seem cheaper that way.

The Chasam Sofer was out of town and when he returned one of his students told him the tragic news that somebody in the city was spreading terrible rumors about him while he was gone. The Chasam immediately sat down and started contemplating deeply. His student asked what he was thinking about. The Chasam Sofer said, "I'm trying to remember what kindliness I did for this person that now he hates me so."

Such is the misapplied genius of the human psyche bent on escaping feelings of indebtedness. This all applies as well to the obligations we have to our Creator. It's another reason why more than it's true that happy people are more grateful, grateful people are more-happy. The less one pays the more one seeks reasons not to pay, and the more he finds. That's way too costly!

Weekly Parsha MISHPATIM 5782 Rabbi Wein's Weekly Blog

The Torah presents us with great moral principles and a profoundly unique value system. These are meant to propel us through life and make us feel that we are members of a kingdom of priests and a holy nation. Yet, we are all aware that perhaps the most difficult challenge in life is translating our core beliefs and high moral aspirations into practical daily behavior.

In a world where there would be no desire for undue riches or the accumulation of vast property, it would be simple to understand that one should not steal, cheat, or covet. In the practical world that we live in, there exists the desire for acquisition of wealth and goods, power and influence, fame, and fortune, all built within our basic DNA structure.

Stealing, cheating, and coveting all require no specific legal definition to be of value in the practical world. And because of this element of human nature, there exist all the great moral values that are represented in the Ten Commandments, which should define our lives.

All sorts of questions arise as to what the true definition of theft is. How does advertising and persuasive sales techniques fit into the moral world that we are trying to construct and live in, and does this describe theft? What about stealing to be able to survive? And countless other questions that undoubtedly arise when we approach the problem of defining behavior that we wish to accompany our lofty moral goals.

All the laws that appear in this week's Torah reading are discussed at length (and width) with precise analysis in the tradition of the Oral Law that governs Jewish life. It is in those large volumes of scholarly research and opinion that the practical flesh and sinews of Jewish law are draped upon the skeleton of the moral world that we hope to attain.

We live in world where mistakes happen, whether they be the products of negligence or pure happenstance. How are we to judge liability and responsibility in that massive gray area where most human behavior finds itself? The Oral Law is a continuing process that deals not only with an ox that gores a cow, but also teaches us how to deal with issues in air travel and even ventures into space. Without clear definition of the original value system upon which the moral code of Judaism is based, human behavior can be seen as merely a collection of good intentions and human platitudes.

The study of the Oral Law, beginning with the books of the Talmud and continuing through the latest works of Jewish legal scholarship of today, become the necessary foundation to creating a just and moral society that we all endeavor to live in.

I have always maintained that when we proclaim ourselves to be the people of the book, that book is not necessarily the Bible itself, but, rather, it is the Talmud, which makes the Bible alive, practical, relevant, and trustworthy throughout all generations. Shabbat Shalom Rabbi Berel Wein

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Healing the Heart of Darkness Rabbi Jonathan Sacks

Jobbik, otherwise known as the Movement for a Better Hungary, is an ultra-nationalist Hungarian political party that has been described as fascist, neo-Nazi, racist, and antisemitic. It has accused Jews of being part of a "cabal of western economic interests" attempting to control the world: the libel otherwise known as the Protocols of the Elders of Zion, a fiction created by members of the Czarist secret service in Paris in the late 1890s and revealed as a forgery by The Times in 1921.[1] On one occasion the Jobbik party asked for a list of all the Jews in the Hungarian government. Disturbingly, in the Hungarian parliamentary elections in April 2014 it secured over 20 per cent of the votes, making it the third largest party.

Until 2012, one of its leading members was a politician in his late 20s, Csanad Szegedi. Szegedi was a rising star in the movement, widely regarded as its future leader. Until one day in 2012. That was the day Szegedi discovered he was a Jew.

Some of Jobbik's members had wanted to stop his progress and spent time investigating his background to see whether they could find anything that would do him damage. What they found was that his maternal grandmother was a Jewish survivor of Auschwitz. So was his maternal grandfather. Half of Szegedi's family were killed during the Holocaust.

Szegedi's opponents started sharing information about Jewish ancestry online. Soon Szegedi himself discovered what was being said and decided to check whether the claims were true. They were. After Auschwitz, his grandparents, once Orthodox Jews, had decided to hide their identity completely. When his mother was 14, her father had told her the secret but ordered her not to reveal it to anyone. Szegedi now knew the truth about himself.

Szegedi decided to resign from the party and find out more about Judaism. He went to a local Chabad Rabbi, Slomó Köves, who at first thought he was joking. Nonetheless he arranged for Szegedi to attend classes on Judaism and to come to the synagogue. At first, Szegedi says, people were shocked. He was treated by some as "a leper." But he persisted. Today he attends synagogue, keeps Shabbat, has learned Hebrew, calls himself Dovid, and in 2013 underwent circumcision (with an ultra-Orthodox mohel).

When he first admitted the truth about his Jewish ancestry, one of his friends in the Jobbik party said, "The best thing would be if we shoot you, so you can be buried as a pure Hungarian." Another urged him to make a public apology. It was this comment, he says, that made him leave the party. "I thought, wait a minute, I am supposed to apologise for the fact that my family was killed at Auschwitz?"[2]

As the realisation that he was a Jew began to change his life, it also transformed his understanding of the world. Today, he says, his focus as a politician is to defend human rights for everyone. "I am aware of my responsibility, and I know I will have to make it right in the future."[3]

Szegedi's story is not just a curiosity. It takes us to the very heart of the strange, fraught nature of our existence as moral beings. What makes us human is the fact that we are rational, reflective, capable of thinking things through. We feel empathy and sympathy, and this begins early. Even newborn babies cry when they hear another child cry. We have mirror neurons in the brain that make us wince when we see someone else in pain. Homo sapiens is the moral animal.

Yet much of human history has been a story of violence, oppression, injustice, corruption, aggression and war. Nor, historically, has it made a significant difference whether the actors in this story have been barbarians or citizens of a high civilisation.

The Greeks of antiquity, masters of art, architecture, drama, poetry, philosophy and science, wasted themselves on the internecine Peloponnesian War between Athens and Sparta in the last quarter of the fifth century BCE. They never fully recovered. It was the end of the golden age of Greece. Fin de siècle Paris and Vienna in the 1890s were the leading centres of European civilisation. Yet they were also the world's leaders in antisemitism, Paris with the Dreyfus Affair, Vienna with its antisemitic mayor, Karl Lueger, whom Hitler later cited as his inspiration.

When we are good we are little lower than the angels. When we are bad we are lower than the beasts. What makes us moral? And what, despite it all, makes humanity capable of being so inhumane?

Plato thought that virtue was knowledge. If we know something is wrong, we will not do it. All vice is the result of ignorance. Teach people the true, the good, and the beautiful and they will behave well. Aristotle held that virtue was habit, learned in childhood till it becomes part of our character.

David Hume and Adam Smith, two intellectual giants of the Scottish Enlightenment, thought that morality came from emotion, fellow feeling. Hume said the most remarkable feature of human nature is the "propensity we have to sympathise with others."[4] Adam Smith began his Theory of Moral Sentiments with the words, "How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure

of seeing it."[5] Immanuel Kant, the supreme rationalist, believed that rationality itself was the source of morality. A moral principle is one you are willing to prescribe for everyone. Therefore, for example, lying cannot be moral because you do not wish others to lie to you.

All five views have some truth to them, and we can find similar sentiments in the rabbinic literature. In the spirit of Plato, the Sages spoke of the tinok shenishba, someone who does wrong because he or she was not educated to know what is right.[6] Maimonides, like Aristotle, thought virtue came from repeated practice. Halachah creates habits of the heart. The Rabbis said that the angels of kindness and charity argued for the creation of man because we naturally feel for others, as Hume and Smith argued. Kant's principle is similar to what the Sages called sevarah, "reason."

But these insights only serve to deepen the question. If knowledge, emotion, and reason lead us to be moral, why is that that humans hate, harm and kill? A full answer would take longer than a lifetime, but the short answer is simple. We are tribal animals. We form ourselves into groups. Morality is both cause and consequence of this fact. Toward people with whom we are or feel ourselves to be related we are capable of altruism. But toward strangers we feel fear, and that fear is capable of turning us into monsters.

Morality, in Jonathan Haidt's phrase, binds and blinds.[7] It binds us to others in a bond of reciprocal altruism. But it also blinds us to the humanity of those who stand outside that bond. It unites and divides. It divides because it unites. Morality turns the "I" of self interest into the "We" of the common good. But the very act of creating an "Us" simultaneously creates a "Them," the people not like us. Even the most universalistic of religions, founded on principles of love and compassion, have often viewed those outside the faith as Satan, the infidel, the antichrist, the child of darkness, the unredeemed. Large groups of their followers have committed unspeakable acts of brutality in the name of God.

Neither Platonic knowledge nor Adam Smith's moral sense nor Kantian reason has cured the heart of darkness in the human condition. That is why two sentences blaze through today's parsha like the sun emerging from behind thick clouds: You must not mistreat or oppress the stranger in any way. Remember, you yourselves were once strangers in the land of Egypt. Ex. 22:21 You must not oppress strangers. You know what it feels like to be a stranger, for you yourselves were once strangers in the land of Egypt.

Ex. 23:9 The great crimes of humanity have been committed against the stranger, the outsider, the one-not-like-us. Recognising the humanity of the stranger has been the historic weak point in most cultures. The Greeks saw non-Greeks as barbarians. Germans called Jews vermin, lice, a cancer in the body of the nation. In Rwanda, Hutus called Tutsis inyenzi, cockroaches. Dehumanise the other and all the moral forces in the world will not save us from evil. Knowledge is silenced, emotion anaesthetised and reason perverted. The Nazis convinced themselves (and others) that in exterminating the Jews they were performing a moral service for the Aryan race.[8] Suicide bombers are convinced that they are acting for the greater glory of God.[9] There is such a thing as altruistic evil.

That is what makes these two commands so significant. The Torah emphasises the point time and again: the Rabbis said that the command to love the stranger appears thirty-six times in the Torah. Jewish law is here confronting directly the fact that care for the stranger is not something for which we can rely on our normal moral resources of knowledge, empathy and rationality. Usually we can, but under situations of high stress, when we feel our group threatened, we cannot. The very inclinations that bring out the best in us – our genetic inclination to make sacrifices for the sake of kith and kin – can also bring out the worst in us when we fear the stranger. We are tribal animals and we are easily threatened by the members of another tribe.

Note that these commands are given shortly after the Exodus. Implicit in them is a very radical idea indeed. Care for the stranger is why the Israelites had to experience exile and slavery before they could enter the Promised Land and build their own society and state. You will not succeed in caring for the stranger, implies God, until you yourselves know in your very bones and sinews what it feels like to be a stranger. And lest you forget, I have already commanded you to remind yourselves and your children of the taste of affliction and bitterness every year on Pesach. Those who forget what it feels like to be a stranger, eventually come to oppress strangers, and if the children of Abraham oppress strangers, why did I make them My covenantal partners?

Empathy, sympathy, knowledge, and rationality are usually enough to let us live at peace with others. But not in hard times. Serbs, Croats and Muslims lived peaceably together in Bosnia for years. So did Hutus and Tutsis in Rwanda. The problem arises at times of change and disruption when people are anxious and afraid. That is why exceptional defences are necessary, which is why the Torah speaks of memory and history – things that go to the very heart of our identity. We have to remember that we were once on the other side of the equation. We were once strangers: the oppressed, the victims. Remembering the Jewish past forces us to undergo role reversal. In the midst of freedom we have to remind ourselves of what it feels like to be a slave.

What happened to Csanad, now Dovid, Szegedi, was exactly that: role reversal. He was a hater who discovered that he belonged among the hated. What cured him of antisemitism was his role-reversing discovery that he was a Jew. That, for him, was a life-changing discovery. The Torah tells us that the experience of our ancestors in Egypt was meant to be life-changing as well. Having lived and suffered as strangers, we became the people commanded to care for strangers.

The best way of curing antisemitism is to get people to experience what it feels like to be a Jew. The best way of curing hostility to strangers is to remember that we too – from someone else's perspective – are strangers. Memory and role-reversal are the most powerful resources we have to cure the darkness that can sometimes occlude the human soul.

Shabbat Shalom: Parshat Mishpatim (Exodus 21:1-24:18) Rabbi Shlomo Riskin

Efrat, Israel –"And he took the Book of the Covenant, and read it into the ears of the nation, and they said, 'Everything that the Lord has spoken we shall do and we shall understand" (Exodus 23:7)

At Sinai, the Jewish nation entered into its second covenant with God, a pact based not on the family-nation of the descendants of Abraham (per Genesis 15) but rather on the common religious commitment of adherence to the word of God revealed at Sinai. My revered teacher and mentor, Rabbi Joseph B. Soloveitchik, z"l, taught that, in fact, the Torah contains two covenantal experiences: the former, our national covenant of fate; the latter, our religious covenant of destiny ("Kol Dodi Dofek").

An individual is not asked whether they wish to be born into a specific family or nation-state; "accident" of birth is a matter of fate, and the fate of the Jewish nation has long been to suffer far more than its to-be-expected share of persecution, exile and suffering. To be Jewish was their fate, and their blood was too often shed as a consequence.

Not so the religious faith of the commandments of revelation. The Torah calls upon each Jew to make a choice: to sanctify the Sabbath or desecrate it; to honor one's parents or disregard them. When the bedraggled ex-slaves who stood before Sinai and cried out "we shall do and we shall understand!" (Exodus 23:7), they were making the Jewish vision their national mission, defining themselves as a "kingdom of priest-teachers and a holy nation," and turning their fate into destiny.

The covenant of fate is imposed; the covenant of faith is chosen. To be born into a particular family-nation is our fate; to choose an ideal and ideology as our life's mission is our destiny. The infant about to be circumcised is an object upon whom a ritual is to be imposed; the bar/bat mitzva and bride/groom who have chosen a life dedicated to the ideals of Torah are subjects actualizing their deepest aspirations.

There are, however, special circumstances when fate and destiny become intertwined. One such moment was in September 1970 in Riga, Latvia, where I was on a special underground mission for the Lubavitcher Rebbe, z"l. I was awakened at 2:30 a.m. with a daunting and marvelous request. Two brothers, one just eight days old and the

other one week prior to his bar mitzva, were about to be circumcised. Since the Soviet regime severely punished those who participated in such religious rituals, the two "operations" were to take place in the dead of night at the Rombula cemetery outside Riga.

The ritual ceremony had been timed to coincide with my presence in Riga, since the Jewish doctor who had agreed to risk his license—and perhaps his life—was ignorant of Jewish law.

Words cannot describe the feelings of eeriness, queasiness, admiration and privilege that all converged within me while intoning the circumcision blessings that dark, freezing night in the cemetery. But the most poignant moment of all was yet to come.

After both circumcisions, I uttered the traditional phrase: "Just like [ke-shem] this child has entered the covenant, so may he enter Torah, the nuptial canopy and a life of good deeds." Suddenly, from the depths of silence which one can only sense in a cemetery, the father of the boys emitted a strangled cry in Yiddish: "Nein 'ke-shem' ["Not 'just like'"]! I do not want their britot, bar mitzvas and weddings to be just like this – in a cemetery, in hiding! I want them to be in the open, with pride, in our Jewish homeland, in Israel!"

Indeed, the two children I circumcised nearly five decades ago celebrated their weddings in Israel. Both of them, but particularly the young man just before bar mitzva, were expressing not only their Jewish fate but their Jewish destiny. To a certain extent, this is true of every parent who has their child circumcised. And I believe this is also true with regard to living in the Land of Israel.

On the one hand, every nation, and therefore any national covenant, is dependent upon a specific homeland, in which one is born and about which one generally has little choice. This is not the case, however, with regard to the Jews and the Land of Israel. Because we have been exiled to so many lands for so many generations, our return to Israel depends upon our choice to return to Israel, our willingness to fight for Israel, our understanding that only Israel is our promised land and ultimate home.

Thus, the destiny of the nation of Israel can only be fully realized in the Land of Israel dedicated to the Torah of Israel. The Land of Israel is an integral part of the destiny we accepted at Sinai. We may have returned to Israel as a result of our determination and prayers, but we shall actualize our destiny in Israel only as a result of our efforts and actions. Shabbat Shalom!

Rabbi Yochanan Zweig

This week's Insights is dedicated in loving memory of R' Nosson Meir ben R' Yosef Yehoshua, Rabbi Nussie Zemel.

One and the Same If he shall come alone, he shall go out alone. If he is a husband of a (free) woman, his wife shall go out with him (21:3). The Torah here is discussing the laws of a "Jewish servant – eved Ivri." This refers to one who is sold into servitude to settle debts he incurred when he stole from others. During the years of servitude his wife is supported by his master; when he is freed from service, the financial responsibility for his wife now leaves the master and once again is upon him. Rashi (ad loc) points out that the Torah uses a very unusual word to describe someone as unmarried – "begapo." Rashi goes on to explain; "the word 'begapo' literally means coattail – that he came in as he was; single and unmarried, in his clothing, within the edge of his garment." This is a rather unusual way of saying "bachelor," what is significance of using this word? The word bachelor was first used in the 1300's to describe young men (squires) who were beginning the path to knighthood. The word therefore implies someone young and without experience. In fact, even today it has some of the same implication; the first degree one achieves in college is referred to as a bachelor's degree. But the Torah uses a very specific term; what is the purpose of using the word coattails for bachelorhood? At first glance, one might think that it simply refers to something that is also similar to the English language expression "he came with nothing but the shirt on his back." But Rashi is very specific that it is referring to the "edge" of the garment. What does this really mean? In many Sephardic communities the custom when getting married is that under the chuppah the groom wraps himself and his new wife in a tallis. The intended message is that they are now bonded as one and that his tallis wraps the two of them together as if they were now a single entity. The Torah here, by using a word that means the edge of a garment, is describing what a marriage is. In a marriage, the edge of my garment no longer covers just me; it is covering my wife as well because we are now a single entity. If the edge of my garment only covers me then by definition I am unmarried. Therefore, if the Jewish servant comes in with only himself at the edge of his garment – "begapo" – he must be unmarried.

Kindness Optional? When you will lend money to My people, to the poor person who is with you, do not act towards him as a creditor; do not burden him with interest (22:24). In this week's parsha, the Torah discusses laws relating to lending money to another Jew: you cannot press him for repayment if you know he hasn't the wherewithal to pay you back; it is prohibited to charge interest; etc. The word the Torah uses in the possuk is "im – when." Rashi (ad loc) cites an enigmatic teaching from the Tanna R' Yishmael: "Every use of the word 'im' in the Torah implies a voluntary act (the word 'im' always means 'if'), except for three places in the Torah – this being one of those places." That is to say that while the word "im" usually means "if" implying that it is an optional act, here the word "im" means "when" because lending money is actually obligatory (see Rashi at the end of Parshas Yisro, 20:22 where Rashi shows that the Torah actually commands one to lend money). Obviously this teaching begs the following question: If the Torah actually meant "when" and not "if," then why not simply use the word "when"? Why should the Torah use a word that almost universally means "if"? There is a fascinating discussion among the codifiers of Jewish law as to why certain opportunities to do mitzvos require a blessing (e.g. blowing a shofar and putting on teffilin), while other opportunities do not require a blessing (e.g. honoring one's parents and acts of charity). According to Rashba (responsa 1:18) there are no blessings made when there is another person involved because the completion of the act depends on another person. In other words, if one were to make a blessing recognizing Hashem's mandate to give charity, what happens when the intended recipient refuses or is unable to accept the gift? There is no certainty in completing the act when its completion is also dependent on another individual. Another explanation given is that there is no bracha where it is a moral imperative and it is therefore done by both Jews and non-Jews. This is because in such a situation one is unable to say the words "Asher Kideshanu – that He sanctified us," which is a key component of blessings (Aruch Hashulchan YD 240:2). Maimonides (Hilchos Brachos 11:2) seems to say that we only make brachos on mitzvos that are between man and Hashem (Bein Adom Lamokom), thus exempting situations that included another person. Perhaps we can explain this to mean that the reason we don't make a bracha when another person is involved is that we don't appear to be objectifying another person as an opportunity for one to fulfill a mitzvah. Imagine if someone is in a desperate situation and they approach us for help; how would that person feel if our first response was to make a blessing thanking Hashem for the opportunity to fulfill one of his commandments? The whole purpose of honoring one's parents, for example, is to show them appreciation for all that they have done. By making a blessing, one is introducing the element that the reason for honoring them is due to an obligation, not a personal desire to display gratitude. This would seriously impact the effectiveness of one's act as the parents would have a hard time sensing the appreciation behind the act. The same is true when someone really needs one's help. A major component of the mitzvos of gemilus chassadim (acts of kindness) is to be God-like (Sotah 5a). A fundamental principal of Jewish philosophy is that our world, and system of reward and punishment, was built on a system that would not embarrass the recipients of Hashem's kindness (Nahama Dekisufa). By using the word that usually means "if," the Torah here is teaching us a fundamental principal of helping others: Of course we have to lend money, but we should do it in a way that the recipient feels as if it is optional, and that helping them is something we want to do. Not something we have to do.

Ask Rav Aviner: toratravaviner@yahoo.com Ha-Rav answers hundreds of text message questions a day. Here's a sample:

Speaking to Deceased Q: Is it permissible to speak to the deceased? Does he know I am crying over him? A: Yes. Yes.
Electric Cigarette Q: I found an electric cigarette. Should I make an effort to return it? A: No. It does much damage.
Checking Out Band and Eating Q: If a couple goes to a wedding to check out the band, can they eat from the smorgasbord? A: No. The smorgasbord does not belong to the band, and they do not have permission to give out the food.
Breaking a Coconut Q: There is a custom to break a coconut on a child's feet when he begins to walk. Is it permissible? A: It is a superstition.
Talit as Israel Flag Q: Is it permissible to make a Talit in the form of an Israeli flag with a Magen David in the middle? A: Yes. As a matter of fact, the Israeli flag is based on the Talit (see Hagadat Yom Ha-Atzmaut of Ha-Rav).
Learning Gemara Q: Which is preferable – completing the entire Gemara, or learning each Massechet slowly with greater understanding and reviewing it? A: Learning slowly in depth. It is more considered learning.
Lost Key Q: If someone lost his friend's key and the lock has to be changed, does the one who lost the key have to pay? A: Yes. The keys and the lock are considered one object and it is not an indirect damage.
Sefer Torah Written by Robot Q: Is a Sefer Torah written by a robot Kosher? A: No. It must be written by a Torah observant Jew.
Chasidim of Maran Ha-Rav Kook Q: Is it possible to say that we are Chasidim of Ha-Rav Kook? A: We are much more than this.
Human Flesh or Pig Q: If there is a situation of Pikuach Nefesh, is it better to eat human flesh or pig? A: The Torah says that the prohibition of eating human flesh is less severe.

SEFER CHOFETZ CHAIM As with loshon hora, one may not exaggerate rechilus even for a constructive purpose. If a person harmed, or is planning to harm, someone else and the victim must be informed, one may not give him an exaggerated account of what has transpired or is about to occur. This applies even if the person being warned does not take the danger of the situation seriously. Furthermore, one may relate only as much information as necessary for the purpose to be accomplished. To relate any additional information would be a transgression of the prohibition of rechilus.

SEFER SHMIRAS HALOSHON Sensitivity in Speech Even if one has become so accustomed to speaking loshon hora and so overcome by his evil inclination that forbidden talk pours from his lips without his even realizing what he is saying, nevertheless, he should not despair. Through proper study and review of the relevant laws, a dramatic change for the better will occur. His very nature will change, and he will find himself carefully weighing his own words as he speaks. Even if he will speak but avak loshon hora (words which can lead to loshon hara) he will take note of it, and will be careful not to repeat his mistake. Hashem has endowed man with sensitivity, especially with regard to matters of personal speech. This ability is a great asset in the study of Torah, for when a student enunciates his thoughts, he can better perceive whether or not they are correct. As the Sages state, "For they [words of Torah] are life to those who express them with their mouths" (Eruvin 54a). This ability to discern is true regarding other areas of speech as well. However, such sensitivity is exceedingly weakened through habitual involvement in idle conversation and according little thought to what one is saying. However, when one studies the laws of proper speech and, as a result, becomes cognizant of his own verbal expression, this sensitivity returns little by little, until it attains its original strength

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Ohr Somayach :: Torah Weekly :: Parsha Insights For the week ending 29 January 2022 / 27 Shvat 5782 Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com Parshat Mishpatim - It Ain't Over 'Til It's Over *"Everything that Hashem has said — we will do and we will obey." (19:8)* The "Sunday Dollars" are a well-known piece of Jewish folklore. The Lubavitcher Rebbe zt"l used to give out thousands of dollar bills to those who came to meet him on Sundays. Once, a young boy and his father came to get a dollar bill from the Rebbe. The Rebbe placed a crisp dollar bill into the hands of the father and then the son. As they were walking away, the Rebbe called them back and asked the young boy if he liked sports. "Sure!" said the young boy. The Rebbe asked him which sport he liked. "Baseball," was the reply. The Rebbe asked him what team he followed and the boy said, "The Dodgers." The Rebbe asked him when the last time he saw his team was. "Oh, it was about a month ago, but we didn't stay to the end. It was the bottom of ninth, with two outs, and the pitcher was up to bat. We were seven runs behind. The pitcher is a weak hitter and it was clear what would happen, so we left and went home. "And what did the players do?" inquired the Rebbe. "Well, I guess they played on till the end of the game." "They didn't leave?" asked the Rebbe. "No, well, they couldn't leave, they are the players. I'm just a supporter." The Rebbe said, "A Jew always has to be a player, not a supporter." You can go through life in two ways: You can be a supporter, and when things aren't much fun you can quit, or you can go through life as a player and never give up until it's over, because "Everything Hashem has said, we will do and we will obey."

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www.ou.org Mishpatim: Deeds Done in Doubt Rabbi Dr. Tzvi Hersh Weinreb

My wife and I moved to the Jewish community of Baltimore almost fifty years ago. The fond memories we have of the time we spent there begin with our first Shabbat in town. It was then that I met two special gentlemen. Like any newcomer to a new neighborhood, I sampled several of the nearby synagogues that Shabbat. I entered one of them late in the afternoon, just before the modest "third meal," seudah shlishit. Two older men, at least twice my own age, motioned to me that there was a vacant seat across the table from them. I sat down and they welcomed me very warmly. We exchanged introductions, and I learned that they were both Litvaks, Jews from Lithuania, who had had the good fortune to flee Eastern Europe in time. As devout Jews, they saw their good fortune as divine providence. They invited me to return the following week. They had discovered that I listened to the conversation, not out of mere courtesy, but as someone sincerely interested in their story. After that first Shabbat, I spent quite a few "third meals" in their company. I now wish that I had somehow kept a written record of all of those precious conversations. After they both passed on, I forced myself to record from memory at least some of the tales they had told. I occasionally peruse those notes with nostalgia, and with a tear or two. I remember the anecdotes they told me about their encounters with the great early twentieth century sage, Rabbi Yisrael Mayer Kagan, of blessed memory. Many today are not familiar with that name. That is because they know him as the author of his famous book, Chafetz Chaim. He is so identified with that masterpiece that he is referred to as "the Chafetz Chaim," as if he was his book! My two senior citizen friends adamantly insisted that that particular book was not his most important work. That book focuses on what its author saw as the dominant sin of his generation, namely malicious gossip, lashon hara. Personally, I have always felt that he was absolutely right. In fact, I think that with the advent of electronic communication, the problem of malicious gossip has been magnified and exacerbated far beyond what Rabbi Yisrael Mayer Kagan could have imagined almost a century ago. But my newfound friends disagreed with me. They made me aware of another work by the author of Chafetz Chaim. Their candidate for their mentor's masterpiece is entitled Ahavat Chesed, "Loving Kindness." Had they had their way, Rabbi Kagan would not be known as "the Chafetz Chaim," but rather as "the Ahavat Chesed," the "Lover of Kindness." What, you ask, is the subject of this second book, the one preferred by my two elderly tablemates? The book is about the acts that one is commanded to perform in order to assist others who are in need. Charity, for example, is one such deed, and the laws of charity comprise a major section of Ahavat Chesed. Hospitality is another such deed, as is giving others helpful advice. But a major portion of the work is dedicated to a mitzvah which is less well known, but which is promulgated in this week's Torah portion, Parshat Mishpatim (Exodus 21:1-24:18). The following are the verses to which I refer: "If you lend money to My people, to the poor among you, do not act toward them as

a creditor; exact no interest from them. If you take your neighbor's garment in pledge, you must return it to him before the sun sets; it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate." (Exodus 22:24-26). This beautiful passage portrays an act of compassion. The image of a totally destitute person who has but one change of clothing is heartrending. The sensitivity to his sleeplessness is exquisite. We can ourselves hear his cries in the night to the Lord. But there is one word that the earliest commentators find absolutely puzzling. It is the first word in the passage, "If." If? If you lend money to my people? Shouldn't it read, "I command you to lend money to My people," or, "You must lend money to My people."? It is this question that leads Rashi to cite Rabbi Ishmael's teaching in the Talmudic tractate Bava Metzia: "Every 'if' in the Torah expresses an act which is optional, except for three instances in which 'if' expresses an act which is mandatory—compulsory—and this is one of the three." This "if" is to be translated as "you must." But the question remains. Why use the word "if" at all? Why does Torah not simply tell us that we must lend money to those who need it? Why the "if"? For one answer to this question, I draw upon the teaching of Rabbi Yechezkel of Kuzmir, a nineteenth century Hasidic master. He, in turn, asks a question upon the following Talmudic text: "Rabbi Pinchas ben Yair was on a mission to try to redeem several Jews who were held captive. His route was blocked by the river Ginai. He said to the river, 'Split your waters so that I might pass through!' The river refused, saying, 'You are on your way to do the will of your Maker, and I am on my way to do the will of my Maker. You might succeed, but you might not succeed! But I will certainly succeed! I simply need to continue to flow.'" The river seems perfectly justified. All he has to do is follow nature's course and flow downstream as his Maker created him to do. But Rabbi Pinchas, for all of his good intentions, could not be certain of success. Indeed, the odds are that he would fail. Why should the river yield? But Rabbi Pinchas simply ignored the river's reasonable argument. Instead, he harshly threatened the river, saying, "If you don't split for me, I will decree that not a drop of water shall ever again flow down your riverbed for all eternity!" The question remains: what right did the rabbi have to ignore the river's convincing argument? Rabbi Yechezkel of Kuzmir answers: "The river's assumption is that a deed that is certain to be successful is more desirable to the Almighty than is a deed whose ultimate success is in doubt. But the spiritual insight of Rabbi Pinchas taught him otherwise. The Almighty cherishes the person who undertakes a mission which is risky and whose outcome is uncertain much more than the person who undertakes a mission which he knows will be blessed with success. This, I would suggest, is why lending money to someone in need is, at least in one way, more desirable to the Almighty than simply giving a handout to the poor. When one gives food, for example, to a hungry person, he knows immediately that he has done a good deed. There is no element of doubt. However, when one lends money to another, one never knows. Will the borrower postpone repayment? Will he default? Will the lender ever see his money back? Doing this kind of mitzvah comes with second thoughts and regrets. It is a mitzvah done in the throes of doubt and uncertainty. The lesson taught by Rabbi Pinchas teaches the lender that the mitzvah he did with so much doubt and uncertainty is all the more cherished by the Almighty. There are many mitzvah missions that we all undertake at great risks and with no guarantee that we will be successful in our efforts. Rabbi Pinchas ben Yair teaches us to deliberately pursue such mitzvot. Hence, the passage in this week's Torah portion begins with the big "if." Moral actions are often "iffy." But that's all the more reason to engage in them. The risks are real, but the rewards are eternal.

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chiefrabbi.org Chief Rabbi Ephraim Mirvis Dvar Torah Mishpatim: Do your pets know when it is Shabbat?

I find it fascinating how often over the years people have actually said to me that they genuinely believe that in one form or another their pets know when it is Shabbat. In fact our sages in the Psikta Rabbah tell us that on one occasion Rabbi Yochanan sold his ox to a non-Jewish farmer. After a while the farmer came to Rabbi Yochanan to complain to him: That ox which you sold me, he said, refuses to work on Saturdays! Such a phenomenon can be understood in the context of Parshat Mishpatim. In our parsha the Torah yet again gives us the mitzvah to keep Shabbat and this is how the mitzvah is worded (Shemot 23:12): *"Uvayom hashvii tishbot," – "And on the seventh day you must have a sabbath," – "Leman yanoach shurcha vechamorecha," – "in order that your ox and your donkey should rest."* Now surely the Torah should have said, every seventh day you, your ox and your donkey should rest? Why is it presented in this fashion? The Rebbe of Gur explains beautifully. He said, 'uvayom hashvii tishbot' – if every seventh day you have a true Shabbat, that is to say you don't just keep the letter of the law but in addition you keep to the spirit of the day, if your day is filled with ruach, spiritually uplifting experiences, the result is that you will have a great impact on your surroundings so much so that even your ox and your donkey will know that this is a special day. I believe that this teaching is of enormous significance today at a time when there is so much out there competing with our requirement to keep Shabbat. And what applies to Shabbat applies to all of the mitzvot. The prophet Isaiah (58:13) declared, *"Vekarata l'Shabbat oneg" – "You will discover that the Sabbath is a day of true delight."* If on this day you stop doing what we call 'vochadig' activities, weekday activities, and instead you add on to your 'Shabbosdig' activities the result is that you will discover what a delight Shabbat is. In fact it's an extraordinary gift from Hashem that every seven days we can have an opportunity for a life shaping and life enhancing experience. But that only happens when we keep the spirit of the day. It's so important that we should be enthusiastic and passionate about Shabbat and if we are, by keeping to the spirit of the day, we'll have the capacity to pass on that enthusiasm through to the generations to come. It's only when we keep to the spirit of Shabbat that it becomes what we describe in our zemirot, our songs of the day, a true 'me'ein olam haba' – Shabbat can indeed be the closest thing to Heaven while still being here on earth. *Shabbat shalom. Rabbi Mirvis is the Chief Rabbi of the United Kingdom. He was formerly Chief Rabbi of Ireland.*

Drasha Parshas Mishpatim - Position Impositions Rabbi Mordechai Kamenetzky

How would you feel? That is a question asked by a wide-ranging group of inquisitors ranging from kindergarten teachers chiding their immature charges, to philosophy professors lecturing to disciples about the worlds of the theoretical. Its validity sets the tone from issues that vary from the golden rule to admonitions at the supper table. And at first glance it seems that the Torah uses the maxim to mitigate a deficiency in our very own human nature. "Do not taunt or oppress a ger (newcomer) because you were strangers in the land of Egypt" (Exodus 22:20). According to most commentators, the verse refers to the ger — a convert to Judaism. Others comment however, that it also applies to any newcomer, be it to a neighborhood, a synagogue, or a school. Rashi explains that the Torah forewarns the Jewish nation from being cocky toward anyone who would join our people. "After all," Rashi expounds, "the stranger can easily remind us of our since-forgotten experience in Egypt, where we, too, were strangers." However, something bothers me. The Torah's set of values is pure and unmitigated by personal partiality. So let us ask. Does it truly matter that we were once strangers? Is not it inherently wrong to taunt a newcomer? Shouldn't the Torah just say, "Do not taunt a newcomer? It is morally wrong!" Why is there even a mention of our Egyptian experience? Had we gone directly from Jacob's home to a settled life in the land of Israel, would we then be allowed to taunt newcomers? Of course not! Our years of servitude should not influence the morality of taunting others! So why does the Torah consider our bad experience a factor? Dr. Norman Blumenthal has published extensively about the unique experience of Holocaust survivors' children. Without revealing actual details, he related a case history of a young man whose father had escaped from a Nazi concentration camp at the age of 16 years old. The fugitive did not hide in the forest or in a barn, rather he joined a group of gentile partisans. For the duration of the war, he lived with them, ate with them, and killed Nazis with them. Still, the

courageous young man never gave up his convictions and feelings of Judaism. On that day his father, by then a very successful executive who was very active in the American Jewish community, turned to him and said. "Son, now the easy life is over. Just like me, now you must learn what it takes to survive amongst the gentiles!" He sent the young teen to a university in the southern part of the United States where Jews were as rare as snow. Within months, the young man, mercilessly taunted in a foreign environment, suffered a nervous breakdown. It took years of therapy to undo the shambles. Perhaps we can understand the posuk in a new homiletic light. The sages declare that our experience in Egypt was very necessary, albeit uncomfortable, one to say the least. Under the duress of affliction we fortified our faith. Under the pressure of ridicule we cemented our resolve. Under the strain of duress we built families and sustained our identity. And perhaps it was that experience that laid the ability to endure far-reaching suffering, tests of faith that were only surpassed by the tests of time. And now enter the convert John Doe who hails from a corporate office in West Virginia and has made a conscious, comfortable decision to join the ranks of Moses' men. Our first reaction may just be to have him bear the test of the Jew. Like bootcamp in Fort Bragg, or beasting at West Point, we may have the urge even a compulsion to put Mr. Doe through the rigors of our oppression. After all, that is the stuff of which we are made. We may want to taunt and tease because "we were slaves in a foreign land." The Torah tells us not to do so. "Do not taunt or oppress a ger (newcomer) because you were strangers in a he land of Egypt." Do not impose your difficult experiences in life on others that are newcomers to your present situation. It is easy to say, "such men are made from sterner stuff" and proceed to harangue those who would join us. That should not be. Life has a personal trainer for every individual, and each soul has a particular program mapped out by the Almighty. Jews from birth may have had to suffer in Egypt, while converts have other issues to deal with. One's particular experience may not be fodder for the next person. Do not use your encounters as the standard for the entire world. One cannot view the world from the rear view mirror of his personal experience. *Good Shabbos Dedicted by Marcia Raicus in loving memory of her parents Eugene Raicus, M.D. Yehoshua ben Moshe Suzanne Raicus — Tzeitel bas Moshe*

Rabbi M. Kamenetzky is the Dean of the Yeshiva of South Shore. Drasha © 2020 by Torah.org.

Rabbi Yissocher Frand - Parshas Mishpatim

The Thief Who Won't Climb Back Up The beginning of Parshas Mishpatim contains the halachos of the Eved Ivri, the person who was sold into slavery (for lack of ability to make restitution for money or property he stole). The Eved Ivri remains a slave for six years, during which time his master is allowed to give him a shifcha Canaanis with whom he can produce avadim Canaanim, who will remain slaves of the master. We do not find such a phenomenon anywhere else in the Torah. After six years, however, this slave goes free. At that point, the pasuk says, "But if the slave shall say 'I love my master, my wife, and my children – I shall not go free.' Then the master shall bring him to the court and shall bring him to the door or to the doorpost and his master shall bore through his ear with the awl, and he shall serve him forever." (Shemos 21:5-6) A famous Rashi here teaches in the name of Rav Yochanan ben Zakkai that the ear was chosen to be bored to teach a homiletic lesson: That ear which heard on Har Sinai "Thou shalt not steal" and he nevertheless stole—that ear shall be pierced. It is the ear that needs to pay the price for not listening to the commandments at Sinai. Rashi quotes this teaching in the name of the Mechilta. All the Meforshim ask – if by stealing, the person is guilty for not listening to what was commanded at Har Sinai, then why didn't we pierce his ear right away when he stole? Why wait six years, and only do it in the case of someone who decides he does not want to go out to freedom? I heard an interesting approach to this question from the Anfei Erez, who was Rav Leib Gurvitz, the Rosh Yeshiva in Gateshead. One of the most well-known Haftorahs is the Haftorah of Parshas VaEschanan. This is the Haftorah of the Shabbos which follows Tisha B'Av, called Shabbos Nachamu. Everyone is familiar with the first pasuk: "Nachamu, Nachamu Ami Yomar Elokeichem." – "Comfort, comfort My people, says your G-d" (Yeshaya 40:1). There is another pasuk in that chapter that is perhaps not as familiar: The Navi talks about a time in the future when the Ribono shel Olam will come to comfort us: "Every valley will be raised, and every mountain and hill will be lowered, the crooked will become straight, and heights will become valley." (Yeshaya 40:4) The Almighty will literally move mountains for us. He will flatten out the earth – lowering the mountains and raising up the valleys. Perhaps it is understandable that the Ribono shel Olam will flatten the mountains, because who wants to climb (or even drive over) mountains! But what is wrong with valleys? Valleys are beautiful. Who complains about the presence of a valley? The Yalkut Shimoni explains that these words are a metaphor. The Navi does not literally mean that the mountains will be flattened or that the valleys will be raised. The Medrash explains that the Navi is talking about the future, when Knesses Yisrael will say before the Almighty "Master of the Universe, I see the places where I have sinned, and I am embarrassed by them." The pasuk is talking about the future time when Klal Yisrael will desire to do teshuva. Peaks and valleys represent "life". There are times in life when we are on the peaks, but there are times in life when we are in the valleys. Valleys are a metaphor for the times in life when we don't act as we should. When we have tzores, when we do aveiros, we fall into a valley. Klal Yisrael comes to the Almighty and confesses "I see the places where I have been corrupt. I pass by so many places that remind me of my sordid past. They remind me of the times in life that I fell down. It pains me. It bothers me. I remember what happened there and what I did there. I am embarrassed by it." Hashem responds, "Don't worry about the valleys. I am going to raise the valleys so that they will no longer be recognizable." Hashem promises to remove all those places and all those incidents that embarrass us. I am going to wipe the slate clean and you will start fresh again. Klal Yisrael persists – but there are still witnesses around to testify about all the bad things that I did, as it is written "I proclaim the Heavens and the Earth to be witnesses against you" (Devorim 30:19). Hashem says, "Don't worry about that. I will get rid of them as it is written "Behold I will create a new Heaven and a new Earth, the earlier ones will not be remembered, they will no longer come upon the heart." (Yeshaya 65:17) Klal Yisrael still persists: "But my bad name will still be around." Hashem puts Klal Yisrael's mind to rest again: "I will call you a new name", etc., etc. That is what this pasuk means. It is not talking about mountains and valleys. It is talking about a Klal Yisrael that wants to do teshuva but is pained by its visions of the past and the things and the places that remind it of a sinful past. The Ribono shel Olam consoles Klal Yisrael: "Don't worry – I am going to get rid of all those places, you won't have to look at them, you won't have to think about them, it will all be erased." Such is the nature of a person who regrets what he did. I don't want to walk by that place because it reminds me of what I did there. Rav Leib Gurvitz writes: "Truth be told, when this person stole, maybe he did not steal because he was a thief, but rather sometimes a person is in such dire straits that he steals because that is the only way he sees himself escaping from his predicament. We all have moments of weakness where we might do something which does not really reflect our true selves. Such may have been the situation of the slave who was sold into slavery because of his inability to make restitution for his theft. Consequently, when he originally stole, we could not have pierced his ear and told him "You are a thief! You have willfully violated what you heard at Sinai: 'Do not steal!'" Maybe he was not a ganav but rather just a weak person who grabbed something in a moment of desperation. But now, six years later, this person has been in servitude for six years. He is married to a shifcha Canaanis. This is a stigma that yells loud and clear: You are a ganav because only in that situation can someone ever marry a shifcha Canaanis. The fact that his children are avadim Canaanim also proclaims loudly and clearly: You are a thief, because only in that situation does someone produce avadim Canaanim. His last six years have been shouting out at him that he has been a thief, and now after six years what does he say? "I love my wife. I do not care that my whole situation

screams out that I am a ganav. After all, I am a ganav. It does not bother me." If it doesn't bother you, then we retroactively see that when you stole, it was not merely a momentarily lapse. If you are not embarrassed by these "valleys" in your life, you are not like Klal Yisrael, that doesn't want to see the valleys any more. They don't want to see all the places that remind them of their past. You are not like that. If you are not like that, then you are now going to get the punishment you really deserved all along. Six years ago, we reserved judgement because we did not know definitively what type of person you really were. Your acceptance and enjoyment of your current status indicates you are deserving of having a permanent marker bored into your ear that did not listen to the Voice that it heard on Sinai.

One of Life's Great Lessons: Strike While the Iron Is Hot The normal Haftorah for Parshas Mishpatim is usually pre-empted because we replace it with the Haftorah of Parshas Shekalim. However, the normal Haftorah for this week's parsha (to be read in fact this year – 5782) is from Chapter 34 of Sefer Yirmiyahu. The Haftorah says: "The word of Hashem then came to Yirmiyahu from Hashem saying: Thus said Hashem, G-d of Israel: "I sealed a covenant with your forefathers on the day I took them out of the land of Egypt, from the house of slaves, saying, 'At the outset of the seventh year, each of you shall send forth his Hebrew brother who will have been sold to you; he shall serve you for six years and then you shall send him forth free from yourself'" (Yirmiyahu 34:12-14). This pasuk informs us that there was something everyone needed to hear on the very day of Yetzias Mitzrayim—that whenever you buy a Jewish slave, he leaves your service after six years. They needed to hear the parsha of Eved Ivri on the very day they left Mitzrayim!

We might wonder: Was there nothing more relevant to them on the day they left Mitzrayim than the parameters of Jewish slave ownership? This is something that would not be applicable until they came into Eretz Yisrael. Even if they had not spent forty years in the desert, the first thing they would think about when entering Eretz Yisrael would not have been "Okay. Let's go to the slave market." What lesson is being taught here? We may derive one of the great lessons of life from this teaching: Strike while the iron is hot! Seize the moment. There is no one who appreciates what it means to be a slave like a person who has just been a slave. Therefore, as you are just now coming out of slavery, you know what it is like. I am telling you right here and now: One day you may be slave owners. You need to treat your slaves properly and justly, and after six years, they go free. But hear this specifically now, because now you are sensitive to the subject. If you do not act on the moment, the moment will dissipate. That is the way people are. If something happens and you are in a situation where you are sensitive to what just happened, then do something with that recognition, because if not – it will pass, like it always does. There is a famous story about a bochur in the Volozhiner Yeshiva. In the Volozhiner Yeshiva, they learned all of Shas from the beginning of Tractate Berachos until the end of Tractate Niddah. The original Volozhiner Yeshiva was the granddaddy of all Lithuanian Yeshivas. Many great Torah luminaries learned there and emerged from there. This bochur knew Shas "forwards and backwards" and "backwards and forwards". One day, this bochur was sitting at a table eating his meal with a group of other bochrim. Another bochur entered and posed a question on the piece of Talmud he was studying. This bochur responded, "I don't know the answer to your question." Another young man at the table questioned him: "What do you mean you don't know the answer? It is explicitly discussed by Tosfos in Maseches Gittin. When this bochur heard that he forgot a Tosfos, he was extremely shaken! How could I forget a Tosfos!?! Right then and there he got up and he said "That's it! I am going to learn continuously for the next seven years. With the exception of eating and sleeping, I am not going to do anything else for the next seven years!" He ran out of the lunchroom, ran to the Beis Medrash, and he in fact learned for the next seven years, except for eating and sleeping. There is only one problem. He was in such a hurry to leave the lunchroom that he forgot to bentch. They asked Rav Chaim Volozhiner (the head and founder of the Yeshiva) – Did this bochur act properly or improperly? Rav Chaim Volozhiner said, "Of course he did not act properly. No one can sanction not bentching. But if he would have bentched, he never would have learned for the next seven years!" That moment of determination would have passed. If a person lets the moment pass, he can never recapture it. That is indeed the lesson of "On the day I took you out from Egypt, I told you about the laws of Jewish slavery." That was the perfect "teachable moment". They would never again be as receptive to this teaching as they were on that historic day. If a person does not seize the moment, it is gone forever.

Who Did Whom the Favor? Parshas Mishpatim contains the mitzvah of lending money to a fellow Jew. Even though the pasuk introducing this mitzvah (Shemos 22:24) begins with the words "Im Kesef Talveh…" which is normally translated "If you lend money…" this is one of the places in the Torah where the word "Im" does not mean "If". It means "When". There is, indeed, a positive Biblical mitzvah to lend money to your fellow Jew when he is in need It is not always easy to lend money, because a person can "make money with money." It is therefore often hard to part with our money. I recently heard the following amazing story: Reuven and Shimon are best friends, as close as brothers. Reuven went to Shimon and said "Shimon, I need to borrow $250,000. I need this money urgently. Otherwise, my business will collapse." Shimon hesitates. "Where am I supposed to get $250,000?" Reuven tells Shimon, "But Shimon, you told me just a couple of weeks ago that you finished paying off your house. Take out a new mortgage on your house." Shimon hesitated, but Reuven begged and pressed him for the loan. Shimon went home and consulted with his wife. She advised, "Go ask the Rav." The Rav told him, you are not actually obligated to do this, but if you trust the fellow then it would be a very big mitzvah to do it. Shimon went back to his friend and said, "Okay. I will do it." He went to the bank and applied to take out a second mortgage on his house. Both these Jews live in Far Rockaway, N.Y. The bank processed the paperwork and agreed to give Shimon a second mortgage, but they warned him that he lived in a flood plain and would not be eligible for the loan unless he took out flood insurance. Shimon took out flood insurance and received the mortgage. He lent Revuen the $250,000. Three weeks later, Shimon's house was flooded by Hurricane Sandy… but he was covered because he took out the flood insurance. Who did whom the favor? *Transcribed by David Twersky; Jerusalem DavidATwersky@gmail.com Technical Assistance by Dovid Hoffman; Baltimore, MD dhoffman@torah.org Rav Frand © 2020 by Torah.org.*

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blogs.timesofisrael.com Tribal accountability (Mishpatim) Ben-Tzion Spitz

Action springs not from thought, but from a readiness for responsibility. - Dietrich Bonhoeffer

At God's Revelation at Mount Sinai which accompanied the giving of the Ten Commandments, the recently freed nation of Israel assembled at the foot of the mountain and heard both God and Moses. In their eagerness to take on God's commandments the people of Israel loudly declare "we will do, and we will listen." This declaration is considered a great merit to the Jewish people and implies that they committed themselves to keep the commandments, to perform the commandments, to "do" them even before they've fully studied them or understood them – the "listen" part. It's considered a higher form of service, to commit oneself to undertake God's instructions and only afterward to explore deeply and understand them. Hence, first to do and then to listen. The Talmud refers to this strategy as a secret previously only known to the angels (Tractate Shabbat 88). The Chidushei HaRim on Exodus 24:7 notes the plural form of the declaration. Each individual doesn't say "I will do, and I will listen," but rather they are inclusive of each other, "WE will do, and WE will listen." He explains that their eagerness and enthusiasm regarding the Torah was so great, and they understood it to be such a dear, sweet, divine gift, that not only was each individual more than ready to take on this commitment for themselves, but they were ready to make themselves accountable for their fellow Jew. Each member of the tribes of Israel stated that not only would they accept God's commandments, but they would also be a guarantor for their

brethren. They would be there for each other, for all of history. Hence the "we." Each person would be accountable for the next. This would not be a solitary, individualized commitment, but rather a communal, tribal, and national commitment. Hence the ancient dictum "All of Israel are guarantors one for the other." The physical, financial, emotional and spiritual well-being of our brothers is always our concern. We can never turn a blind eye and we are constantly enjoined to help, to support, to lend a hand. We are responsible, we are accountable, we are the guarantors of one another. May we always be able to assist those in need, on as many fronts as needed. *Dedication - To when snowfall is beautiful. Shabbat Shalom Ben-Tzion Spitz is a former Chief Rabbi of Uruguay. He is the author of three books of Biblical Fiction and over 600 articles and stories dealing with biblical themes.*

Rabbi Shmuel Rabinowitz Parashat Mishpatim – 5782 A Society in the Spirit of Justice and Humanity

"Derech eretz (decency, kind behavior) precedes Torah." This is a famous saying of Jewish sages. It is used in different contexts in Judaism, sometimes to encourage proper behavior as a condition of religious life. By examining the parashot we are currently reading, we can attain a profound and comprehensive grasp of this saying. Last week, we read Parashat Yitro with its description of the Revelation at Mount Sinai and the ten commandments given by G-d. The ten commandments are ten fundamental directives and principles in the Torah. But the way of life, the laws and individual regulations in the Torah are unmeasurably longer. Immediately after receiving the Torah, Moses began to expand on it and get into the details of G-d's commandments. The order in which the Torah chooses to present things is fascinating and even a bit strange. First, in the last verses of Parashat Yitro, the Torah lays out some principles relating to building a temple and altar. Immediately afterwards, at the beginning of Parashat Mishpatim, the Torah suddenly presents an entire system of directives termed "mishpatim," the laws of justice that must guide society and which should be enforced through courts. These laws of justice get into the smallest of details in the interactions between people, and demand complete justice, along with attention paid to the needs of the weak. When Parashat Mishpatim ends, the Torah moves on to discussing the building of the Mishkan, the Tabernacle, that temporary temple that accompanied the children of Israel during their journeys in the desert, which was the prototype for the Temple established in Jerusalem centuries later. The question that arises is – Why does the Torah suddenly stop the flow of commandments relating to the temple, the altar, and worshipping G-d and move abruptly to a description of the justice and court system? This question was pondered by Rabbi Samson Raphael (RaSHaR) Hirsch, a rabbi and biblical commentator in 19th century Germany, known as the father of the "Torah with derech eretz" method. He writes as follows: "And these are the laws" – in previous verses, the Torah wrote of the building of the altar, which symbolizes a basic principle: Our entire relationship with G-d must be understood as something that provides a strong and unshakable basis for building a society in the spirit of justice and humanity… This principle is connected with the word "and" to "these laws," those same laws which will establish the building of a Jewish society on the basis of justice and humanity. By doing so, the sword will be distanced, meaning violence and cruelty, from the Jewish state, and only then will this society be worthy of establishing an altar to G-d within it. Therefore "these laws" precede the building of the Mishkan. (RaSHaR Hirsch, Exodus 21, 1) Rabbi Samson Raphael did not see this pause between directives relating to the building of the altar and of the Mishkan as coincidental. In his opinion, the Torah was trying to convey an important message: The purpose of our relationship with G-d is to provide a strong basis for the building of a society in the spirit of justice and humanity. The reward for establishing such a society is a closer relationship with G-d. This is the message our sages convey through the saying "Derech eretz precedes Torah." Moral interpersonal interactions precede the laws of G-d and are essential conditions for their existence. Divine laws are there to make basic human morality gentler and more precise. Parashat Mishpatim gives us the divine tools to sharpen our sense of righteousness and to connect it to gentleness, compassion and social responsibility, and through them to reach connection with G-d. *The writer is rabbi of the Western Wall and Holy Sites.*

Rav Kook Torah Rav Kook on Mishpatim:
An Eye for an Eye Rabbi Chanan Morrison

Azar's Question During the years that Rav Kook served as chief rabbi of Jaffa, he met and befriended many of the Hebrew writers and intellectuals of the time. His initial contact in that circle was the 'elder' of the Hebrew writers, Alexander Ziskind Rabinowitz, better known by the abbreviation Azar. Azar was one of the leaders of Po'alei Tzion, an anti-religious, Marxist party; but over the years, Azar developed strong ties with traditional Judaism. He met with Rav Kook many times, and they became close friends. Azar once asked Rav Kook: How can the Sages interpret the verse "eye for an eye" (Exod. 21:24) as referring to monetary compensation? Does this explanation not contradict the peshat, the simple meaning of the verse? The Talmud (Baba Kamma 84a) brings a number of proofs that the phrase "eye for an eye" cannot be taken literally. How, for example, could justice be served if the person who poked out his neighbor's eyes was himself blind? Or what if one of the parties had only one functioning eye before the incident? Clearly, there are many cases in which such a punishment would be neither equitable nor just. What bothered Azar was the blatant discrepancy between the simple reading of the verse and the Talmudic interpretation. If "eye for an eye" in fact means monetary compensation, why does the Torah not state that explicitly?

The Parable Rav Kook responded by way of a parable. The Kabbalists, he explained, compared the Written Torah to a father and the Oral Torah to a mother. When parents discover their son has committed a grave offense, how do they react? The father immediately raises his hand to punish his son. But the mother, full of compassion, rushes to stop him. "Please, not in anger!" she pleads, and she convinces the father to mete out a lighter punishment. An onlooker might conclude that all this drama was superfluous. In the end, the boy did not receive corporal punishment. Why make a big show of it? In fact, the scene provided an important educational lesson for the errant son. Even though he was only lightly disciplined, the son was made to understand that his actions deserved a much more severe punishment.

A Fitting Punishment This is exactly the case when one individual injures another. The offender needs to understand the gravity of his actions. In practice, he only pays monetary restitution, as the Oral Law rules. But he should not think that with money alone he can repair the damage he inflicted. As Maimonides explained, the Torah's intention is not that the court should actually injure him in the same way that he injured his neighbor, but rather "that it is fitting to amputate his limb or injure him, just as he did to the injured party" (Mishneh Torah, Laws of Personal Injuries 1:3). Maimonides more fully developed the idea that monetary restitution alone cannot atone for physical damages in chapter 5: *"Causing bodily injury is not like causing monetary loss. One who causes monetary loss is exonerated as soon as he repays the damages. But if one injured his neighbor, even though he paid all five categories of monetary restitution — even if he offered to God all the rams of Nevayot [see Isaiah 60:7] — he is not exonerated until he has asked the injured party for forgiveness, and he agrees to forgive him." (Personal Injuries, 5:9)*

The Revealed and the Esoteric Afterwards, Azar commented: "Only Rav Kook could have given such an explanation, clarifying legal concepts in Jewish Law by way of Kabbalistic metaphors, for I once heard him say that the boundaries between Nigleh and Nistar, the exoteric and the esoteric areas of Torah, are not so rigid. For some people, Torah with Rashi's commentary is an esoteric study; while for others, even a chapter in the Kabbalistic work Eitz Chayim belongs to the revealed part of Torah." *(Sapphire from the Land of Israel. Adapted from Malachim Kivnei Adam by Simcha Raz, pp. 351, 360.)*

The Hoop and the Drum – How to be a Good Neighbor Rabbi Yirmiyohu Kaganoff

Each of the following shaylos is an actual case of inter-neighbor altercations that I was asked about or over which I presided. All these cases deal with shaylos about neighbors' rights within the framework of halacha. What may I do or not do on my property that may infringe on my neighbor's right to gain full benefit and enjoyment from his property?

Question #1: After moving into a new apartment, my grandmother discovered that her next-door neighbor practices his drums every day. On some days he even has band practice in his house. When we asked the drummer to limit his hours or decrease the volume, he insisted that he has been doing this for years and that this is his livelihood. Grandma finds the noise blasting through the walls highly distressing. Can we force the neighbor to drum elsewhere? Question #2: Yehudah and Tamar dwell in a semi-detached house. Levi purchased the other side of the house as an investment, and rented it out. A few weeks later, Tamar calls Levi to complain about the volume and late hours of noise emanating from the new tenants and asks Levi to have them shape up or ship out. Levi meets with his tenants, attempting to explain that their behavior is inappropriate for the neighborhood, but they insist that their behavior is normative. If this continues, do Yehudah and Tamar have the halachic right to insist that Levi terminate the tenants' lease? Question #3: There is always such a racket upstairs! I am certain that their kids are rollerblading or playing basketball right over my head, but their mother insists that they are just normal, active children. What may I do to improve the situation that is halachically acceptable and will not land me in jail? Question #4: Several years ago, Reuven (who lives on the ground floor) affixed a basketball hoop to the wall of the apartment building and laid out a regulation-sized half-court. Shimon, who now lives directly above Reuven, would like to hang a clothesline outside his window, but as any large item hanging from the clothesline will lie on the hoop and become dirty, he would like Reuven to remove the hoop to a different location. This, of course, will ruin the basketball court.

BACKGROUND TO THE SHAYLOS Unless local custom dictates otherwise (a concept I will explain shortly), one may use one's house for normal household use, provided that the activity does not damage my neighbor's person or property. "Typical domestic use" includes work done in one's house to earn a livelihood. For this reason, at the time of the Mishnah, one could use one's house for simple manufacturing, and a neighbor could not object to a residence being used as a bakery or to dye clothing, even if the neighbor's house became uncomfortably warm as a result (Mishnah Bava Basra 20b).

AN EXCEPTION There is an exception to this general principle: a neighbor may prevent a store from opening in a residential property. Why is a store different from other livelihoods? Because a store generates a lot of foot traffic, a neighbor has the halachic right to prevent the noise and bustle. But do people entering and leaving a small household store create more discomfort for the neighbor than the heat of a baker's oven or a dyeing operation? Why does the Mishnah rule that one can prevent the neighbor running a store, but not a bakery? The reason is that, although the discomfort generated by the store may sometimes be less than the heat of the oven, the Mishnah forbade the store because its proprietor can sell his wares in the marketplace, which, in that era, was the primary business location in town. Since it was unnecessary to sell merchandise in one's house, insisting that a neighbor sell his wares elsewhere did not jeopardize his livelihood. Manufacturing, on the other hand, was generally done in people's homes (Shu't Chasam Sofer #92).

Two precluding uses Of course, we then need to clarify the next issue: What is the halacha when two permissible domestic uses preclude one another? For example, Upstairs wants to use his house as a warehouse to store grain, whereas Downstairs wants to use his house as a bakery. Both of these uses are considered "typical domestic use," since each is using his domicile as a means of earning his livelihood. However, the two uses are mutually exclusive, since the heat rising from the bakery will ruin the grain. May Upstairs prevent his neighbor from baking? The Mishnah rules that whoever began his operation first has the right to continue. If Upstairs began storing grain before Downstairs opened his bakery, the bakery may not be opened. However, if Upstairs has not yet begun to store grain, Downstairs may open a bakery in his house. Once one neighbor begins using his house for a certain purpose, a second neighbor using his part for an incompatible purpose is considered as creating damage.

WHY DO WE CONSIDER BAKERIES AND DYE FACTORIES "NORMAL HOUSE USES"? In earlier times, most people making a living from crafts, small manufacturing, other cottage industries or trading used their house as their base of operation. Thus, using your house as a bakery, factory, or warehouse was normal household use.

DO LOCAL LAW AND CUSTOM AFFECT THESE HALACHOS? Indeed they do. In general, halachos that involve financial arrangements between two parties are governed by the prevalent local practice. This is called, hakol keminhag ha'medinah, "everything follows local custom." The rationale is that the parties assume that local custom governs their relationships, and includes that people buy or rent a house or apartment assuming that they and the neighbors will follow the accepted local norm. Therefore, today one may not open a bakery or dyeing operation in a residential building since it violates common practice. Everything depends on contemporary local custom. Thus, examining the different responsa discussing these issues provides an interesting glimpse into our forebears' livelihoods and lives. For example, a nineteenth-century responsum discusses the following situation: A man passed on, leaving his large house to his three sons, who divided it into three apartments for themselves. One son opened a bar in his apartment, which was apparently an accepted practice in those days. However, the other brothers wanted him to close it because of the quantity and type of traffic it generated (Shu't Chasam Sofer, Choshen Mishpat #92). On the other hand, the bartender brother contended that this was his livelihood and as such he is permitted to operate his livelihood in his residence. When the rav who was ruling this issue referred the shaylah to the Chasam Sofer, the rav discussed whether using your house as a tavern is considered a legitimate domestic use. Superficially, it would appear that it is not, just as one may not use one's house as a store, since it is not considered normal household use when many customers visit a residence. However, the rav who referred the shaylah noted that it was common practice (in those times) to sell sugar or coffee out of one's house because this was necessary for people's livelihood. Even though these situations should also be prohibited according to the Gemara, nonetheless, minhag hamedinah permitted it, and perhaps this same custom could justify opening a tavern in one's house. Furthermore, the rav contended that a tavern is not a business that one can carry out in the town's marketplace, because a bar has to be a place conducive for people to sit together and relax. The Chasam Sofer suggests a reason to require the closing of the tavern, based on the type of clientele it generates, but does not rule conclusively that this would provide a legitimate claim to close it. Thus, we see that what would seem highly obvious to us -- that it is forbidden to open a tavern in your residence against the wishes of your neighbors -- was not obvious to the great poskim who ruled on this issue two hundred years ago. This demonstrates how times change.

THE DRUMMER We can now try to apply the principles we have learned to the cases we mentioned at the beginning of the article. In our first shaylah, Grandma's neighbor practices his drums, thus disturbing her. Grandma would like him to limit his hours or decrease the sound, but he insists that he has been doing this for years and that this is his livelihood. Can we force the neighbor to drum elsewhere? Is drumming in your house an accepted practice? Can one claim that this is a permitted hobby in a residential neighborhood? In addition, can one claim that this is necessary for one's livelihood? This would primarily depend on the accepted local custom. If, indeed, drumming is permitted during daytime hours and the drummer's activities are legal and accepted according to local ordinance, then Grandma may have no right to prevent him from continuing his activity. However if local custom precludes this activity, one could prevent him from drumming even though it is his livelihood. Thus, if Grandma moved into a retirement community where one would assume that everything will be nice and quiet, she can certainly insist that her neighbor drum elsewhere.

WHAT IS THE HALACHA IF THERE IS NO LOCAL CUSTOM? In this particular case, the parties involved lived in an area where there is no established practice prohibiting drumming during daytime hours. Grandma's family wanted to know whether there were halachic grounds to prevent her neighbor from drumming when it greatly distressed her. From what we have mentioned above, it appears that the drummer has a legitimate claim to use his home for his livelihood. However, this is not always the case, as the following 14th century responsum indicates: A weaver had a home-operated business, which utilized a large and noisy loom. Although he had been operating this business for a number of years, his neighbor sued him in beis din to remove the loom from the property because of two claims:

1. The loom was causing damage to their common wall.
2. The wife of the neighbor was ill, and the noise disturbed her.

The Rivash (Shu't #196) ruled that both claims were legitimate, and that the weaver must remove the loom even though it had been operating for years. He contended that, although most people can tolerate this amount of noise, someone who is highly sensitive or ill can legitimately claim that noise injures them, thereby requiring the neighbor to cease the operation (Rama, Choshen Mishpat 156:2; see also Rama, Choshen Mishpat 155:39). It is historically noteworthy that the Rivash did not prohibit having a large loom operating in one's house under all circumstances. On the contrary, the Rivash implies that one could operate such a loom if it did not damage the property nor injure one's neighbor. Thus according to the Rivash's psak, in the case of Grandma's neighborly drummer, if her health is fragile and she would be ill-effected by the drumming, one could prevent him from drumming.

NOISY NEIGHBORS We can now examine the background behind Questions #2 and #3 above: In question #3, the downstairs neighbor finds the noise from the active family above them to be quite intolerable. The upstairs neighbor insists that

this is the standard noise of normal, active children. Can downstairs ask beis din to force upstairs to relocate? Aside from the questions of local custom (minhag ha'medinah) discussed above, we need to clarify something else in this case: Is the upstairs noise unusual, or is it simply the usual bustle produced by a large household, particularly one with children, but the downstairs neighbor is extremely sensitive to noise? Does the downstairs neighbor have a valid claim that the upstairs neighbor should be quieter, and if he does, must the upstairs neighbor relocate? Similarly, question #2 also hinges on whether the neighbor's noise is abnormal, regardless of who lives next door. If the neighbor is a bit noisy, and the complaining neighbor is merely more sensitive than most people, there are no grounds to require the termination of the lease. On the other hand, if the neighbor is really objectionable, the landlord should terminate their lease on this basis. The Chazon Ish (Bava Basra 13:11) points out that the Rivash's case involved use of a loom, which, although suited to household use according to Chazal's definition, is not a typical household use. He contends that one may not prevent someone from using his house for a typical household use, even if a neighbor finds the noise level distressful. Thus, someone whose family makes a great deal of noise may continue to do so. Even if a neighbor becomes ill and is intolerable of such noise, he still cannot force the noisy neighbor to move. Therefore, one cannot force a neighbor whose children cry in the middle of the night to move, even if you lived there first. However, you can prevent them from having the kids play ball or rollerblading in the house since these are not typical household uses when you live above someone else. Rav Tzvi Spitz, a dayan in Yerushalayim, discusses the following case: A family adopted a foster child, and the neighbors complain that the child makes loud noises at all hours of the night, disturbing their rest. The neighbors contend that, although it is a mitzvah to take care of a foster child, the foster parents have no right to perform their mitzvah at the neighbors' expense. The neighbors contend that they have a right to enjoy peace and quiet in their apartments. Can the neighbors force the foster parents to relinquish the foster child or move? Rav Spitz ruled that since taking care of children is considered the major purpose of a house, the neighbors cannot claim that their rights preclude the rights of someone to raise a child in their house, and furthermore, one cannot distinguish between raising one's own child or raising someone else's (Minchas Tzvi 1:10).

HOOP VERSUS CLOTHESLINE In many places it is standard domestic use to have a clothesline hanging outside your window. In these locations, one has a right to hang a clothesline. On the other hand, is it normal domestic use to hang a basketball hoop? If this is a location where both uses are considered normal, then whoever was there first would have the claim, similar to the Gemara's case of the bakery and the storage area. If the right to a laundry line is considered normal house use, and the basketball hoop is not, one could argue that the hoop should be taken down to make way for the laundry line. With a healthy dose of mutual good will, most people should manage to live with their neighbors in peace and tranquility. And in cases of conflict, we must not hesitate to use halacha as our guide, just as we do in all other aspects of our lives.

Ohr Somayach :: Insights into Halacha For the week ending 29 January 2022 / 27 Shvat 5782 Snowballs on Shabbos? Rabbi Yehuda Spitz

Let it Snow!! With the raging "Elpis" Storm currently blanketing Yerushalayim with snow, meteorologists predicting (and children hoping!) that the accumulated snowfall will reach 20 centimeters, and the memory of Yerushalayim's 2014 Asarah B'Teves / Erev Shabbos[1] "Blizzard"[2] [seemingly the worst since 5547 (1787),[3] or at least 5717 (1957)][4] still lingering,[5] there is one specific halachic sheilah that readily comes to mind.[6] This is the very same question that this author was asked several times over that snowed-in Yerushalayim Shabbos and ultimately ended up addressing in a Shabbos shiur:

Is making snowballs permitted on Shabbos? And if not, why not?

Truthfully, the question is far more complex than one might think, and quite interestingly, no clear-cut consensus as to the proper rationales and reasons, even among those poskim who deem it prohibited.

Hotza'ah Yet, one very important fact is clear. If the Eruv is down, or in a locale that does not have an Eruv, outdoor snowball fights (unless in an enclosed Reshus HaYachid) would certainly be forbidden, as throwing snowballs would transgress the prohibition of "Hotza'ah, Carrying."[7] The question would not even start unless referring to a place with a reliable Eruv. However, to define which actions or set of actions define snowball making, and whether or not it is prohibited is not so simple. Let us explore these issues further.

Muktzeh First of all, is snow actually Muktzeh? Is one allowed to move it? The common halachic consensus is that rain is not Muktzeh, even if it fell on Shabbos, as proven by Tosafos,[8] based on the Gemara in Eruvin,[9] as the moisture existed beforehand in the form of clouds. This is the halacha pesuka.[10] Would the same categorization apply to snow? Many Acharonim, including the Chavos Yair, Even HaOzer, Maamar Mordechai, and the Butchatcher Rav,[11] as well as many contemporary authorities including the Minchas Shabbos, Rav Tzvi Pesach Frank, Rav Shlomo Zalman Auerbach, Rav Yosef Shalom Elyashiv, the Debreciner Rav, the She'arim Metzuyanim B'Halacha, Rav Ovadia Yosef, Rav Chaim Kanievsky, the Rivevos Efraim, the Nishmas Shabbos, and Rav Pesach Eliyahu Falk,[12] do define snow similarly to rain, maintaining that the same rationale permitting utilizing rain on Shabbos applies to snow as well, and it is therefore not Muktza. However, Rav Moshe Feinstein held that snow is indeed considered Muktzeh, as nowadays people generally do not have a real use for it, and is akin to gravel, that its main use is simply to walk on it.[13] Additionally, he held that snow would be prohibited due to another concern as well. In Rav Feinstein's assessment, snow would be considered Nolad (came into existence on Shabbos) if it fell on Shabbos,[14] since, as opposed to rain, true as it might be, nevertheless people do not associate snow with being carried in the clouds. An interesting upshot of this shitta is that although he held snow is Muktzeh, Rav Moshe did not ascribe any other prohibition to making snowballs. Accordingly, it seems that Rav Moshe would hold that if one gathered snow on Erev Shabbos and set it aside for a snowball fight on Shabbos (within a proper Erev, of course) then one may make and throw those snowballs on Shabbos.[15]

Boneh On the other hand, many other authorities, although maintaining that snow itself is not Muktzeh, nevertheless held that making snowballs on Shabbos is problematic for other reasons, chief among them "Boneh, Building." The Rambam, cited as halacha by the Mishnah Berurah, discussing cheese-making, rules that anytime one takes separate parts of an item and joins them together to make a new item, is 'similar to Boneh' and therefore prohibited on Shabbos.[16] Rav Yair Chaim Bachrach (1639-1702) – the renowned Chavos Yair, and on a more contemporary note, Rav Shlomo Zalman Auerbach, and Rav Chaim Kanievsky, as well as others, apply this rule to the formation of snowballs, prohibiting it.[17] Although by making snowballs one is not actually creating something new, he is still giving form to something that was previously not extant, which gives the appearance of and is akin to the halachic definition of building. Yet, other poskim, including Rav Moshe Feinstein, the Debreciner Rav, and the Nishmas Shabbos disagree,[18] maintaining that the prohibition of Boneh can only apply when one builds something which has at least a minimal semblance of permanence. On the other hand, snowballs, they argue, which have a transient and ephemeral existence lasting a grand total of several seconds from time of throwing, should not be including in the 'building' category. Nonetheless, they concede that when it comes to building snowmen, which generally are meant to stick around until they melt several days later, this would be proscribed due to Boneh.

Risuk Another potential prohibition involved with making snowballs on Shabbos is "Risuk, Crushing" (or mashing), related to the prohibition of "Sechita, Squeezing" (as in squeezing out juice from a fruit). The Shulchan Aruch regarding washing one's hands on Shabbos with icy or snowy water, rules that one should be careful not to rub his hands together with the ice as it may crush the ice, causing it to melt and him to unwittingly transgress the prohibition of Risuk.[19] Several authorities, including the Chavos Yair, and much later, the Debreciner Rav apply this ruling to making snowballs.[20] In the formation of a snowball by applying direct pressure to it, one cannot avoid crushing the snow, causing a bit of it to melt. In scientific terms, this process of applying pressure is referred to as regelation, where the compression causes a melt and then the release causes freezing of that melt. This is what holds a well-made snowball together.[21] Interestingly, the discoverer of regelation, British scientist Michael Faraday, was born 100 years after the Chavos Yair first discussed this phenomenon regarding the halachic implications of snowball making. Either way, these Poskim explain, snowball making would be prohibited on Shabbos due to this reason. On the other hand, Rav Moshe Feinstein and the Nishmas Shabbos disagree.[22] They assert that any minuscule amount of water that is possibly melted while forming a snowball outdoors in the freezing cold is definitely not noticeable, and in no way would this constitute crushing or squeezing out a liquid.

More Melachos? Other potential prohibitions in the formation of snowballs mentioned by several authorities and rejected by others include: Ma'mar, gathering (i.e. gathering the snow to make the snowballs),[23] Uvda D'Chol, weekday activities,[24] and Soser, destroying (i.e. when the thrown snowball hits its target and consequently falls apart).[25]

So… Can We Build a Shabbos Snowman? In the final analysis, although there are poskim who give a dispensation to allow young children to make and throw snowballs on Shabbos,[26] nevertheless, the majority of authorities rule that it is assur, period. In fact, and unknown to most, this contemporary sheilah is not as current as many suspect, as already in the 1690s (!) the Chavos Yair exhorted that if one sees children throwing snowballs at each other on Shabbos, one should attempt to stop them. The reason why the Chavos Yair's shittah on this topic is mostly unknown is that his full Mekor Chaim on Orach Chaim was only first published in 1982, quite posthumously, by Machon Yerushalayim, even though it was written over 300 years prior (!). It is said that this work was originally intended as a principal commentary to Shulchan Aruch but was withdrawn by the

author when he discovered that other commentaries, most notably the Taz and the Magen Avraham, had already been published. Back to snowballs and snowmen, practically speaking, although they do not necessarily see eye to eye in their rationales, and there is no clear cut consensus as to the singular reason why it should be prohibited, all the same, the hachra'as haposkim, is indeed that making snowballs, and certainly making snowmen, is assur on Shabbos.[27] Just another reason to play inside on Shabbos when a 'White Winter Wonderland' beckons from the great outdoors or a 'Polar Vortex' comes a-knocking.

[1] For more on the topic of Asarah B'Teves falling out on Erev Shabbos, see recent article titled 'The Many Facets of Asarah B'Teves'. [2] Yes, this author is familiar with the 'Coincidences' involved with that memorable Yerushalayim snowstorm. According to the Targum (Rav Yosef) to Divrei Hayamim, 'Yom Hasheleg' - 'The Day of Snow' that Binayahu ben Yehoyada 'smote the lion in the pit' (Shmuel II, Ch. 23: verse 20 and Divrei Hayamim I, Ch. 11: verse 22; see also Gemara Brachos 18a), is none other than Asarah B'Teves! Additionally, since it was a fast, the Haftara read by Mincha included the apropos verse (Yeshaya Ch. 55: verse 10) referring to 'Ka'asher Yai'rade Hageshem Vehasheleg Min Hashamayin', 'when the rain and snow fall from the heavens'. Furthermore, that day's Daf Yomi was Yoma 35, which includes the famous account of Hillel almost freezing to death on the roof of Shmaya and Avtalyon's Beis Midrash, while trying to listen to their teaching 'Divrei Elokim Chaim', when he could not afford the admission fee. That day was described by the Gemara as an Erev Shabbos in Teves, that a tremendous amount of snow (3 amos) fell upon him from the heavens. Moreover, this incident ostensibly occurred in Yerushalayim, as it is well known that Shmaya and Avtalyon, the Gedolei HaDor, lived in Yerushalayim. [See Mishnayos Ediyus (Ch. 1: 3 & Ch. 5: 6), Gemara Brachos (19a), Shabbos (15a), and Yoma (71b).] Thanks are due to Rabbi Dovid Alexander for his paper on these 'Coincidences'. [3] See Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim, 143: 6), who relates a historical sheilah from a snowstorm on Shabbos in Yerushalayim in 1787 when the shul's entrance was covered with so much snow that it was impossible for anyone to have possibly attended. Therefore, would the tzibbur have to lein a double parsha the next week? [4] See Shu"t Har Tzvi (Orach Chaim, Ta"l Harim, Soser 1), who mentions a Shabbos snowstorm in Yerushalayim in 1957 that was so bad, that people asked if they may hack and/or shovel the snow and ice off their roofs on Shabbos. On this important topic there are several other contemporary authorities who later addressed this issue. See Shu"t Lev Avraham (49), Shu"t Ba'er Moshe (vol. 1: 28), Shu"t Mishnah Halachos (vol. 4: 45), Shu"t Machazeh Eliyahu (vol. 1: 67), Shu"t Nishmas Shabbos (vol. 4: 247 and 248), Shemiras Shabbos Khilchasah (Ch. 25: 11), Mesores Moshe (vol. 1, pg. 67: 147), and Kuntress Gevuros Akiva (L'fanos Sheleg Beshabbos). [5] Many children in Yerushalayim and its environs felt gypped from 2019's much hyped "snowstorm," as it was, in a word, 'underwhelming.' Although Israel's North got squarely blanketed, on the other hand, Yerushalayim received maximum a few inches of mostly slush, which melted by morning. Hardly enough for even a snowball fight; a far cry from 2014's culmination of several feet (in some areas) of snow. At press time, the jury was still out on the currently thundering and bombarding "Elpis Storm." [6] For a fascinating exposition on the various and varied roles snow plays in halacha, see Rav Shlomo Yosef Zevin's Le'ohr Hahalacha (Chapter 'Hasheleg', ppg. 232 - 239). Thanks are due to Rabbi Eliezer Brodt, author of Bein Kesseh Le'Esor and Likutei Eliezer, for providing this author with this invaluable source. [7] This topic was covered at length in a previous article titled 'The Curious Case of the Karpef'. [8] Tosafos (Beitzah 2a s.v. ka and Eruvin 46a s.v. kol). [9] Eruvin (45b - 46a). [10] See for example Meiri (Eruvin 45b s.v. me'achar), Teshuvos Hagaonim (242), Beis Yosef (Orach Chaim end 310; citing the Shibolei Haleket (85) and Rav Tzemach Gaon (Halachos Pesukos 146), Magen Avraham (Orach Chaim 397: 13), Maharsham (Daas Torah, Orach Chaim 340: end 1), Mishnah Berurah (338: 30; citing the Zechor L'Avraham), and Kaf Hachaim (Orach Chaim 310: 52 and 397: 56), and many later authorities. Although the Pri Megadim (Pesicha Koleles to Hilchos Yom Tov, Ch. 3: 2, Dinei Muktzeh 29) implies that rain is muktzeh, this is not the normative halacha and many 'answer up' his shitta explaining that he was simply referring to the hava amina of the Gemara to prove a point about Nolad [See Nezer Yisrael (38: 3, 28), Minchas Shabbos (on Kitzur Shulchan Aruch, 80: 56 & Shiyurei Hamincha ad loc. 19), Toldos Shmuel (pg. 197b), Shu"t Har Tzvi (ibid.), Shu"t Ba'er Moshe (vol. 1: 20), andShu"t Nishmas Shabbos (vol. 4: 249 s.v. u'mitzad).] Although, the Mishnah Berurah (310: 32) rules like the Chayei Adam (vol. 2, 65: 63, Pen 8), that water that drips from trees on Shabbos during Nissan (possibly sap) is Nolad and therefore Muktzeh, this does not affect his ruling regarding rain, which is not considered Nolad, nor Muktzeh, as one does not associate water with coming from trees, and thus in that specific scenario is akin to a new creation on Shabbos, as opposed to rain. [11] Chavos Yair (Mekor Chaim, Orach Chaim 320: 11), Even HaOzer (Orach Chaim 363), Maamar Mordechai (Shu"t 2), and the Butchatcher Rav (Eshel Avrohom, Orach Chaim 312: Tinyana). Although the words of the Chasam Sofer (Shu"t Orach Chaim 89) regarding broken pieces of ice that one does not need (i.e. he only needed the water underneath) might imply the opposite, nevertheless, see She'arim Metzuyanim B'Halacha (80: 19) based on the Maharsham (Daas Torah, Orach Chaim 320: 10), Shu"t Machazeh Eliyahu (vol. 1: 68, end 1, in the brackets), and Sefer Hanosein Sheleg (Kuntress Hashu"t: footnote 8), who explain that this does not apply to snow, nor to our ubiquitous ice cubes, and maintain that even according to the Chasam Sofer neither would be considered Muktzeh. [12] Minchas Shabbos (on Kitzur Shulchan Aruch 80: 56), Rav Tzvi Pesach Frank (Shu"t Har Tzvi ibid.), Rav Shlomo Zalman Auerbach (as per Shemiras Shabbos Kehilchasah Ch. 16: 45, Shulchan Shlomo 310: 26, 2, and Sefer Tiltulei Shabbos pg. 165, footnote 10), Rav Yosef Shalom Elyashiv (as per Shalmei Yehuda Ch. 13: 19, pg. 203 and Orchos Shabbos vol. 2, Ch. 19: footnote 259), the Debreciner Rav (Shu"t Ba'er Moshe vol. 1: 20), She'arim Metzuyanim B'Halacha (80: 19), Rav Ovadia Yosef (cited in Yalkut Yosef, Shabbos vol. 2, pg. 498: footnote s.v. ul'inyan), Rav Chaim Kanievsky (cited in Sefer Hanosein Sheleg, Kuntress Hashu"t 7; and not as cited in Shu"t Alei Siach pg. 134: 51; however it is possible that was simply referring to making snowballs as assur), the Rivevos Efraim (Shu"t vol. 1: 223, 1), the Nishmas Shabbos (Shu"t vol. 4: 247 and 249), and Rav Pesach Eliyahu Falk (Shu"t Machzeh Eliyahu vol. 1: 68). However, see Sefer Tiltulei Shabbos (pg. 13: 13) [as well as Orchos Shabbos vol. 2, Ch. 19: footnote 259, which only quotes the Teshuva fromSefer Tiltulei Shabbos pg. 13: 13, and not the psak that appears later in the sefer] who cites a Teshuva from Rav Shlomo Zalman Auerbach, where he held that it is 'not pashut to be lenient' with the issur of nolad regarding snow that actually fell on Shabbos and Yom Tov. The Shulchan Shlomo (ibid.) cites both psakim lemaaseh in his understanding of Rav Shlomo Zalman's opinion, and distinguishes between snow that fell on Shabbos which is muktzah, and snow that fell prior to the onset of Shabbos, which is not. [13] Shu"t Igros Moshe (Orach Chaim vol. 5, 22: 37), Sefer Tiltulei Shabbos (pg. 165: footnote 10; even referring to snow that fell before Shabbos), and Orchos Shabbos (vol. 2, Ch. 19: footnote 259), and not as quoted in Sefer Hilchos Shabbos of Rav Shimon Eider (pg. 120: footnote 331). On the other hand, Rav Moshe's son Rav Dovid Feinstein is quoted (Shu"t Videbarta Bam vol. 2: 147 s.v. v'shamaati) as maintaining a more nuanced position. He explains that there is no 'mesorah' as to whether snow is truly Muktzah, and as there are dogs nowadays that would eat / drink snow, perhaps it may be considered 'fit for animals.' He concludes that "b'makom hatzorech yeish lomar" that snow is not Muktza pertaining to Tiltul. [14] The issue of Nolad on Shabbos is complicated. This is actually one notable inyan which is stricter on Yom Tov than Shabbos. Although in the Gemaros dealing with this topic [Beitzah and Eruvin (ibid.), as well as Shabbos (29a)] the level of 'Nolad' necessary to prohibit something that came into existence on Shabbos (a real existential quandary, you might say) is a machlokes R' Shimon and R' Yehuda, the halachic bottom line is that in needs to be classified as a 'Nolad Gamur' to be proscribed on Shabbos. See Rashi and Tosafos (Beitzah 2a s.v. ka), Rambam(HilchosShvisasYomTov, Ch. 1: 19), and Rema(OrachChaim495: 4). See also ShemirasShabbosKehilchasah(vol. 1, pg. 359, footnote 159 and further) who breaks this topic down and categorizes the different types of Nolad and their applications. On the other hand, in a fascinating counter-point and novel approach, the OhrSomayach(HilchosYomTov, Ch. 2, Halacha3 s.v. lachein) opines that if one would be able to create something out of thin air on Shabbos, it would be permitted and not Muktzah, as this 'Super NoladGamur' could not have possibly been considered "in this world at all" to possess the status of Muktzah. [15] See Mesores Moshe (vol. 1, pg. 68: 148). [16] Rambam (Hilchos Shabbos, Ch. 7: 6), cited as halacha by the Mishnah Berurah (319: 63). [17] See Mekor Chaim (Orach Chaim 320: 11), Rav Shlomo Zalman Auerbach (cited in Shemiras Shabbos Kehilchasah and Shulchan Shlomo ibid.), Rav Chaim Kanievsky (cited in Sefer Hanosein Sheleg, Kuntress Hashu"t: 6 and 27), and Shu"t Rivevos Efraim (ibid., who writes, quoting the Menucha Nechona, that 'issuro hu meshum etzem ha'asiyah', implying that the issue is Boneh). Although they acknowledge the differences between cheese-making and snowball forming and agree that making snowballs can't be considered actual building and one would not violate Boneh on a Deoraysa level [see Shemiras Shabbos Kehilchasah (Ch. 16: footnote 117)], nevertheless, Rav Shlomo Zalman referred to making snowballs as 'an issur lechatchilla (of Boneh) since snow is not food,' and Rav Chaim Kanievsky wrote 'ra'ui l'hizaher d'mechzi k'Boneh.' [18] Rav Moshe Feinstein (Mesores Moshe ibid.), the Debreciner Rav (Shu"t Ba'er Moshe vol. 6: 30) and Shu"t Nishmas Shabbos (ibid.). See also the Ba'er Moshe's teshuva printed in Sefer Piskei Hilchos Shabbos (vol. 2, pg. 59, Question 6) who concludes that there is no hetter to allow building a snowman on Shabbos. [19] Shulchan Aruch (Orach Chaim 320: 11). Although there are poskim who do permit this, [see Magen Avrohom (ad loc. 16), Ba'er Heitev (ad loc. 15), and Aruch Hashulchan (ad loc. 25; who concludes 'tzarich iyun l'dina')], nevertheless, the Kitzur Shulchan Aruch (80: 14), Ben Ish Chai (Year 2: Parshas Yisro 9), and Mishnah Berurah (Biur Halacha ad loc. s.v. yizaher) conclude 'ain lehakelb'zeh,' as 'many many Rishonim' cite this as well. Regarding the issue of crushing and melting ice on Shabbos ('merazkin es hasheleg') in order to make its water flow, which the Gemara (Shabbos 51b) states is prohibited on Shabbos, there is much debate among the Rishonim and Acharonim whether this proscription is due to 'Nolad' or to 'Sechita.' See Rashi, Tosafos, Rashba, Rosh (all ad loc.), Ran (ad loc. 23b in the Rif's pagination), Shibolei Haleket (Shabbos 85), Rambam (Hilchos Shabbos Ch. 21: 13; and Maggid Mishnah ad loc.), Sefer HaTerumah (235), Beis Yosef (Orach Chaim 318: 16 and 320: 9), Shu"t Panim Meiros (vol. 1: 84 s.v. v'attah), Tur, Shulchan Aruch, Rema, and main commentaries to Orach Chaim 318:16 and 320:9, Shulchan Aruch Harav (Orach Chaim 320: 16), Chayei Adam (vol. 2, 14: 11 and 20: 7 and 20), Ben Ish Chai (ibid.), Eglei Tal (Maleches Dush 18: 36, 19 and 25 – 27; and ad loc. 37, 3), Shvisas HaShabbos (Maleches Dush 19 and 20), Mishnah Berurah (320: 35), Aruch Hashulchan (ad loc. 21 – 25), and Kaf Hachaim (ad loc. 63). Perhaps this topic will be addressed in a more comprehensive manner in a future article. [20] Mekor Chaim (ibid.) and Shu"t Ba'er Moshe (ibid.). Actually, the Chavos Yair refers to it as "Dush, Threshing." However, as the Nishmas Shabbos (ibid.) and Me'ohr Hashabbos (vol. 3: Ch. 13, 59, and extensive footnote) explain, he could not have meant threshing, which does not seem to apply to snowballs [as the Shemiras Shabbos Kehilchasah (Ch. 16: footnote 117) points out and concludes 'tzarich iyun']. Rather, they maintain he was referring to Risuk, which is a type of Sechita, which in itself is a Toldah of 'Dush' [see Rambam (Hilchos Shabbos Ch. 8: 10) and Aruch Hashulchan (Orach Chaim 320: 3)]. [21] Thanks are due to David Lederman for pointing this out to me. [22] Mesores Moshe (vol. 1, pg. 67: 147 s.v. ulgabei) and Shu"t Nishmas Shabbos (ibid.). [23] See Minchas Ish (Ch. 11: 23, footnote 38). However, the Ba'er Moshe (Shu"t ibid.) rejects this out of hand as this only applies to 'Gidulei Karka', or at least 'Makom Gidulo,' neither of which seem to apply to snow [see Daas Torah (Orach Chaim 340: 9) and Mishnah Berurah (340: 35 and 36)]. [24] See Rabbi Shimon Eider's Sefer Hilchos Shabbos (pg. 120: footnote 331) who posits that making snowballs should be 'Uvda D'Chol'. However, in this author's estimation, as no one else seems to cite such logic, it seems that this would be a novel approach. Additionally, we find that when something is prohibited for this reason or a similar one, nevertheless, if it is something that is an 'oneg' or 'hana'as guf' for the one performing the action, it is permitted. For example, although running and jumping are technically prohibited on Shabbos, they are both nonetheless fully permitted for children to do, as that is their 'oneg Shabbos' [see Shulchan Aruch (Orach Chaim 301: 1 and 2), Aruch Hashulchan (ad loc. 44), and Mishnah Berurah (ad loc. 5 and 6 and Shaar Hatziyun 3, 6, and 7); Rav Yaakov Kamenetsky (Emes L'Yaakov on Tur and Shulchan Aruch, Orach Chaim 328: footnote 377) even applied this distinction to one who is sunbathing simply for 'Hana'as Gufo']. The same would seemingly pertain to children and their snowball fights. What greater fun do children have on a Snow Day? [25] See Shemiras Shabbos Kehilchasah (Ch. 16: footnote 117) who raises this issue, but cites Rav Shlomo Zalman Auerbach as ruling that it is not applicable, as once one throws a snowball he does not care about it breaking apart. Furthermore, even when thrown, it is not one's kavanna to davka destroy the snowball. The Nishmas Shabbos (ibid.) expresses similar sentiments. Additionally, as making snowballs is not considered 'Binyan Gamur,' even according to those who consider it a type of Boneh, it would seem difficult to label a snowball's falling apart as Soser, as by definition, that Melacha can only apply (as a reverse Malacha of sorts) when Boneh does. [26] See Shu"t Ba'er Moshe (vol. 6: 30) and Shu"t Nishmas Shabbos (vol. 4: 249). However, see the Ba'er Moshe's teshuva printed in Sefer Piskei Hilchos Shabbos (vol. 2, pg. 59, Question 6) where he writes a stronger lashon, that certainly it is 'assur behechlet' for one who is 13 to make snowballs on Shabbos, and that one should certainly be machmir from age 9 or 10 to be properly mechanech the children so there should not come to be 'zilzul' of Shabbos. This author has also recently seen printed that Rav Dovid Feinstein allows children to make snowballs as well. However, he qualifies his hetter, as only allowing children shelo higiya l'chinuch to play in the snow on Shabbos (see Rabbi Yitzchok Frankel's Kuntress Yad Dodi, Hilchos Shabbos, Muktzeh, Question 10). [27] Aside for the teshuvos previously mentioned, this is how many contemporary sefarim on Hilchos Shabbos conclude, regardless of the reason presented, including Shemiras Shabbos Kehilchasah (Ch. 16: 45), Me'ohr Hashabbos (vol. 3, Ch. 13: 59), Orchos Shabbos (vol. 1, Ch. 8: 39), Sefer Hilchos Shabbos (pg. 120: 14), The 39 Melachos (vol. 4, pg. 1092), Shabbos Kehalacha (Tza'atzuim 51), and Uveyom HaShabbos (Ch. 10: 16).

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

This article was written L'iluy Nishmas this author's beloved grandmother, Chana Rus bas Rav Yissachar Dov, R' Chaim Baruch Yehuda ben Dovid Tzvi, L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, and l'zechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua sheleimah teikif u'miyad!

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לע"נ

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PARSHAT MISHPATIM [shiur # 1]

WHEN DID BNEI YISRAEL SAY 'NA'ASEH VE-NISHMA'?

When did Bnei Yisrael declare 'na'aseh ve-nishma'?

Most of us would probably answer: **before** they received the Ten Commandments (Rashi's opinion / and most of all elementary school teachers). However, many other commentators (including Ramban) disagree!

In the following shiur, we will uncover the source of (and the reason for) this controversy.

WHERE DOES PARSHAT MISHPATIM REALLY BEGIN?

Recall from Parshat Yitro that after Bnei Yisrael heard the Ten Commandments **directly** from God, they were overcome by fear and asked Moshe to act as their **intermediary** (see Shmot 20:15-18).

The result of this 'change in the plan' (i.e. from 'directly from God' to transmission via Moshe) becomes apparent in the very next pasuk. Note how the next 'parshia' (i.e. 20:19) begins as God commands Moshe (now acting as His intermediary) to relay an **additional** set of mitzvot to Bnei Yisrael:

> "And God said to Moshe: "Ko tomar el Bnei Yisrael... "
> [Thus **you** shall **say** to Bnei Yisrael:]
> * "You saw that I spoke to you from the Heavens.
> * Do not make any idols of Me...
> * An altar made from earth you shall make for Me..."
> (see 20:19-23).

However, this set of commandments that began with 'ko tomar' does not end here with the conclusion of Parshat Yitro. If you follow these psukim carefully, you'll note how these mitzvot continue directly into Parshat Mishpatim with:

> "And these are the **mishpatim** (rules) that you shall set before them..." [see 21:1 / see also Rashi & Ibn Ezra].

In fact, this set of laws that began with 'ko tomar' continues all the way until the end of chapter 23! It is only in 24:1 where this long quote (of what Moshe is instructed to tell Bnei Yisrael) finally ends. At that point, the Torah then resumes its narrative by describing the events that take place at Har Sinai.

Based on this simple analysis, we have basically identified a distinct unit of 'mitzvot' [from 20:19 thru 23:33) embedded within the story of Ma'amad Har Sinai.

In the following shiur, we will show how the identification of this unit can help us understand the controversy concerning when the story in chapter 24 takes place.

> [In our next shiur, we will return to discuss the content of this special unit, which contains not only the dibrot, but also a select set of mitzvot.]

WHAT MOSHE DOES WHEN HE RETURNS

Considering that this unit began with God's command to Moshe of: 'ko tomar' [thus you shall say to Bnei Yisrael]; once the quote of those mitzvot is complete (i.e. at the end of chapter 23), we should expect to find a narrative that tells us how Moshe fulfilled this command by telling over these mitzvot to Bnei Yisrael.

And indeed, this seems to be exactly what we find in the beginning of chapter 24:

> "... And Moshe came [back down from the mountain] and **told** the people all the **divrei Hashem** (God's words) and all the **mishpatim**" (see 24:3).

If 'divrei Hashem' refers to the laws in 20:19-22, and 'ha-mishpatim' refers to the laws that continue in Parshat Mishpatim (see 21:1), then this pasuk is exactly what we're looking for!

However, as you probably noticed, there is one minor problem. We would have expected this sentence (i.e. 24:3) to be the **first** pasuk in chapter 24; but instead it is the **third**. For some reason, what should have been the opening pasuk is preceded by a short recap of another commandment that God had given Moshe:

> "And Moshe was told to ascend the mountain [to God] with Aharon, and Nadav & Avihu, and the seventy elders to bow at a distance, after which Moshe himself will approach closer, while the others will not ..." (see 24:1-2, read carefully).

It is important to note that 24:2 forms the continuation of God's command that began in 24:1 - and is **not** a description of what Moshe did after that command! In other words, these psukim describe some sort of ceremony that God had commanded Moshe to conduct at Har Sinai. The question will be: When did this ceremony take place, and why?

Even though the meaning of these psukim (i.e. 24:1-2) may first seem unclear, later in chapter 24 we find precisely what they refer to:

> "Then Moshe, Aharon, Nadav & Avihu, and the seventy elders ascended the mountain, and they 'saw' the God of Israel..." (see 24:9-11).

Therefore, to determine what Moshe is 'talking about' in 24:3, we must take into consideration not only the 'ko tomar' unit (20:19-23:33) that he was commanded to convey, but also this ceremony where he and the elders are instructed to ascend Har Sinai and bow down from a distance, as 'parenthetically' described in 24:1-2.

RAMBAN'S APPROACH [the 'simple' pshat]

Ramban explains these psukim in a very straightforward manner. He keeps chapter 24 in its chronological order, and hence understands 24:1-2 as an instruction for Moshe to conduct a ceremony immediately after he relays the mitzvot of the 'ko tomar' unit.

Therefore, when "Moshe came and told the people the **divrei Hashem** and all the **mishpatim**" (see 24:3), the 'divrei Hashem' and 'mishpatim' must refer to what was included in the 'ko tomar' unit. Hence, Ramban explains that 'mishpatim' refers to the 'mishpatim' introduced in 21:1, while (by default) the 'divrei Hashem' must refer to all the other 'mitzvot' in this unit that do not fall under the category of 'mishpatim' (surely 20:19-22, and most probably some of the laws and statements in chapter 23 as well).

As Bnei Yisrael now hear these mitzvot for the first time, they immediately confirm their acceptance:

> "... and the people answered together saying: '**All** that God has commanded us - na'aseh - we shall keep" (24:3).

Even though Bnei Yisrael had already proclaimed 'na'aseh' before Matan Torah (see 19:5-8), this second proclamation is necessary for they have just received an additional set of mitzvot from God, even though it had been conveyed to them via Moshe.

THE CEREMONY

It is at this point in the narrative that Moshe begins the 'ceremony' that was alluded to in 24:1-2. Let's take a look at its details.

First, Moshe writes down the 'divrei Hashem' (see 24:4) in an 'official document' - which most all commentators agree is the 'sefer ha-brit' described in 24:7. Then; he builds a 'mizbeiach' [altar] and erects twelve monuments (one for each tribe) at the foot of the mountain. These acts are in preparation for the public gathering that takes place on the next day - when Bnei Yisrael offer **olot** and **shlamim** on that alter (see 24:5-6).

The highlight of that ceremony takes place in 24:7 when Moshe takes this 'sefer ha-brit' - and reads it aloud:

> "... Then Moshe took the sefer ha-brit and read it aloud to the people, and they answered: Everything which God has spoken to us - **na'aseh** ve-nishma [we shall keep and obey] (24:7).
> [Later in the shiur we will discuss what precisely was written in this **sefer ha-brit** and **why** the people respond 'na'aseh ve-nishma'.]

As a symbolic act that reflects the people's acceptance of this covenant:

> Moshe then took the blood [from the korbanot] and sprinkled it on the people and said: This is the **dam** ha-brit - blood of the **covenant**... concerning these commandments..." (24:8).

As a symbolic act that reflects the national aspect of this covenant, the ceremony concludes as its official leadership ascends the mountain and bows down to God:

> Then Moshe, Aharon, Nadav, and Avihu, and the seventy elders of Israel went up (the mountain) and they saw the God of Israel... And upon the nobles of Israel He laid not His hand; and they beheld God, and ate and drank (24:9-11).

Clearly, this ascent by the elders fulfills God's command as detailed in 24:1. In this manner, God had instructed Moshe not only to convey a set of laws to Bnei Yisrael, but also to present them as part of national ceremony.

This seems to be a nice and simple interpretation for 24:1-11, and reflects the basic approach of Ramban, Ibn Ezra and Rashbam.

Yet despite its simplicity, Rashi (and most likely your first Chumash teacher) disagree!

RASHI'S APPROACH - LAST THINGS FIRST

Quoting the Mechilta on 24:1, Rashi claims that this entire ceremony - including Moshe telling over the 'divrei Hashem & mishpatim', writing down and reading the 'sefer ha-brit', and proclaiming **na'aseh** ve-nishma , etc. (i.e. 24:1-11) - all took place **before** Matan Torah, and hence **before** this 'ko tomar' unit was ever given to Moshe Rabeinu.

This conclusion obviously forces Rashi to provide a totally different interpretation for the phrases 'divrei Hashem & 'ha-mishpatim' in 24:3 and for 'sefer ha-brit' in 24:7 - for they can no longer refer to mitzvot in the 'ko tomar' unit.

At first glance, Rashi's approach seems unnecessary (and rather irrational). [Note how Ramban takes issue with this approach in his opening comments on 24:1!]

However, by undertaking a more comprehensive analysis, we will show how Rashi's interpretation is not only textually based, but also thematically quite significant.

Let's first consider some factors that may have led Rashi to his conclusion.

First of all, the very manner in which chapter 24 begins is quite peculiar - as it opens in 'past perfect' tense ["Ve-el Moshe amar..." - and to Moshe it was told (see 24:1), indicating that all of the events recorded in 24:1-11 may have occurred earlier. Furthermore, if chapter 24 is indeed a continuation of the 'ko tomar' unit, then 24:3 should have been the first pasuk (as we discussed above).

These considerations alone allow us to entertain the possibility that these events may have taken place at an earlier time. Recall however that the events that took place before Matan Torah were already described in Shmot chapter 19. Recall as well (from our shiur on Parshat Yitro) that chapter 19 contained numerous details that were very difficult to explain.

Therefore, Rashi's approach allows us to 'weave' the events described 24:1-11 into chapter 19, thus explaining many of the ambiguities in that chapter.

FILLING IN THE MISSING LINKS

For example, recall from 19:22 how God tells Moshe to warn the '**kohanim** who stand closer', yet we had no idea who these **kohanim** were! However, if the events described in 24:1-11 took place at that time (i.e. before Ma'amad Har Sinai), then clearly the **kohanim** in 19:22 refer to the elite group (Nadav, Avihu, and the seventy elders) singled out in 24:1 & 24:9 - who were commanded to 'come closer' - but not as close as Moshe.

Furthermore, this interpretation explains the need for the extra warning in 19:20-25 [what we referred to as the '**limitation** section']. Recall how the ceremony (described in 24:4-11) concludes as this leadership group ascends the mountain and actually 'sees' God (see 24:10). Nevertheless they are not punished (see 24:11). Despite God's leniency in this regard at that time, He must command Moshe before Ma'amad Har Sinai to warn both the people and the kohanim not to allow that to happen once again!
[See 19:20-25.]

Rashi's interpretation carries yet another 'exegetic' advantage. Recall that Bnei Yisrael had already proclaimed 'na'aseh' in 19:7-8. If so, then there appears to be no need to repeat this proclamation in 24:3. However, if 24:3 takes place before Matan Torah, then 24:3 simply recaps the same event that already took place in 19:7-8.

Finally, Rashi's interpretation can also help us identify the '**heim'** mentioned in 19:13 - who are allowed to ascend Har Sinai once the Shofar sounds a long blast. Most likely, the '**heim'** are that very same elite group who are permitted to partially ascend Har Sinai during the ceremony (as described in 24:1-2, 9).

> [See Ibn Ezra aroch on 19:13, quoting this peirush in the name of Shmuel ben Hofni!]

These 'textual' considerations supply the 'circumstantial evidence' that allows Rashi to place the events of 24:1-11 within chapter 19, and hence before Matan Torah! With this in background, let's see how Rashi explains the details of 24:3 based on the story in chapter 19!

> And Moshe came [see 19:14] and told the people 'divrei Hashem' = the laws of 'prisha' [see 19:15] and 'hagbala' [see 19:12-13] and the 'mishpatim' = the seven Noachide laws and the laws that Bnei Yisrael received at **Mara** (see Shmot 15:25).
> [See Rashi on 24:3.]

In the next pasuk, Rashi reaches an amazing conclusion. Because these events took place before Matan Torah, Rashi explains that the 'divrei Hashem' which Moshe writes down in 24:4 [which later become the 'sefer ha-brit' that Moshe reads in 24:7] is no less than all of Sefer Breishit (and the first half of Sefer Shmot)!

How about Bnei Yisrael's reply of 'naaseh ve-nishma' (in 24:7)? Even though Rashi doesn't explain specifically what this refers to, since it was stated before Matan Torah, it clearly implies Bnei Yisrael's acceptance of all the mitzvot that God may given them, before they know what they are! Hence, this statement is popularly understood as reflective of a statement of blind faith and commitment.

Let's consider the thematic implications of Rashi's interpretation, for they are quite significant.

'WHY' BEFORE 'HOW'

Identifying Sefer Breishit as the 'sefer ha-brit' that Moshe reads in public (in 24:7) ties in beautifully with our discussion of the primary theme of Sefer Breishit. It should not surprise us that Chumash refers to Sefer Breishit as 'sefer ha-brit' - for this highlights the centrality of God's covenant with Avraham Avinu [i.e. **brit** mila & **brit** bein ha-btarim] as its primary theme.

But more significant is the very fact that God commands Moshe to teach Sefer Breishit to Bnei Yisrael **before** they receive the Ten Commandments and the remaining 'mitzvot' of the Torah. Considering that Sefer Breishit explains **how** and **why** Bnei Yisrael were first chosen, it is important that Bnei Yisrael must first understand **why**, i.e. *towards what **purpose*** - they are receiving the Torah, **before** they actually receive it. [This would imply that before one studies **how** to act as a Jew, it is important that he first understand **why** he was chosen.]

Finally, Rashi's interpretation (placing 24:1-11 before Matan Torah) adds tremendous significance to the nature of the three-day preparation for Ma'amad Har Sinai (see 19:10-16). Recall how chapter 19 described quite a 'repressive' atmosphere, consisting primarily of 'no's' [don't touch the mountain, don't come too close, wash your clothes, and stay away from your wives, etc.]. But if we weave the events in 24:1-11 into this three-day preparation, then what emerges is a far more festive and jubilant atmosphere, including:

* Torah study (see 24:3-4),
* A 'kiddish' i.e. offering (and eating) korbanot (see 24:5-6,11),
* A public ceremony [sprinkling the blood on everyone] - followed by public declaration of 'na'aseh ve-nishma' (see 24:7-8),
* The nation's leaders symbolically approach God (see 24:9-11). [What we would call today a full-fledged 'shabbaton'!]

YIR'A & AHAVA

Despite the beauty of Rashi's approach, one basic (and obvious) question remains: What does the Torah gain by dividing this story of Ma'amad Har Sinai in half; telling only part of the story in chapter 19 and the remainder in chapter 24? Would it not have made more sense to describe all of these events together in chapter 19?

One could suggest that in doing so, the Torah differentiates between two important aspects of Ma'amad Har Sinai. Chapter 19, as we discussed last week, focuses on the **yir'a** [fear] perspective, the people's fear and the awe-inspiring nature of this event. In contrast, chapter 24 focuses on the **ahava** [love] perspective, God's special closeness with Bnei Yisrael, which allows them to 'see' Him (see 24:9-11) and generates a joyous event, as they join in a festive meal [offering **olot** & **shlamim** (which are eaten) / see 24:5-6,11].

To emphasize the importance of each aspect, the Torah presents each perspective separately, even though they both took place at the same time. Recording the 'fear' aspect' beforehand, stresses the importance of the fear of God ['yir'at shamayim'] and how it must be the primary prerequisite for receiving the Torah. [See Tehillim 111:10: "reishit chochma yir'at Hashem".]

By recording the 'ahava' aspect at the conclusion of its presentation of the mitzvot given at Har Sinai, the Torah emphasizes how the love of God (and hence our closeness to Him) is no less important, and remains the ultimate goal. Hence, this 'ahava' aspect is also isolated, but recorded at the conclusion of the entire unit to stress that keeping God's mitzvot can help us build a relationship of 'ahavat Hashem'.

This lesson remains no less important as we adhere to the laws of Matan Torah in our daily lives. It challenges us to integrate the values of both 'yir'at shamayim' and 'ahavat Hashem' into all our endeavors.

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. See Ramban on 19:5, especially "al derech ha-**emet**..."! Relate each part of this Ramban to the above shiur.

B. See Shabbat 88a, regarding the machloket when the **dibrot** were given. Relate this sugya to the above shiur.

C. Based on the structure of the 'ko tomar' unit, which is followed by 'brit na'aseh ve-nishma' and where Bnei Yisrael build a **mizbeiach** and offer **olot** & **shlamim**, explain why the primary mitzva in the opening section (i.e. 20:21-23) is "mizbach adama ta'aseh li..." [Does this insight support Rashi or Ramban's interpretation?]

D. Chizkuni, following Rashi, also explains that the covenant in chapter 24 takes place **before** Matan Torah. However, he explains that **sefer ha-brit** (in 24:7) is the **tochacha** in Parshat Behar-Bechukotai, even though it is only recorded much later in Chumash (see Vayikra chapter 26). According to Chizkuni, the **sefer ha-brit** explains how the **land** will serve as a vehicle to either reward or punish Bnei Yisrael, depending upon their observance or neglect of the mitzvot they are about to receive. (This peirush also neatly explains why the phrase "ki li kol ha-aretz" appears in 19:5.)

E. Note that Rashi's interpretation provides us with an excellent example of his exegetic principle of 'ein mukdam u-me'uchar' / see shiur on Parshat Yitro. Because of the many textual and thematic parallels between chapters 19 & 24, Rashi prefers to change the chronological order of the 'parshiot' so as to arrive at a more insightful interpretation. In contrast, Ramban prefers to keep these parshiot in chronological order.]

Note as well that according to Rashi, the entire **Ko Tomar** unit including the 'mishpatim') was given to Moshe Rabeinu during his first forty days on Har Sinai (see Rashi 31:18).

PARSHAT MISHPATIM - shiur #2

A SPECIAL UNIT / AN EDUCATIONAL PROGRESSION

What's better - Chumash or Shulchan Aruch?

The question really isn't fair, but anyone who has studied both books realizes how different they are.

As Parshat Mishpatim contains a set of laws that sounds a bit like Shulchan Aruch [the Jewish Code of Law], this week's shiur will analyze their progression, to show how the Torah delivers its message through the manner of their presentation.

INTRODUCTION

In last week's shiur, we began our discussion of how the laws in Chumash are presented in groups (or 'units'). For example, in Parshat Yitro, we saw how the first 'ten' Commandments were given as part of Ma'amad Har Sinai. Afterward, we identified the next 'unit' of mitzvot - which we referred to as the 'ko tomar' unit, beginning in 20:19, and continuing until the end of chapter 23 (which comprises most of Parshat Mishpatim). Later on in Chumash we will find many additional 'units' of mitzvot, embedded within its various narratives.

Because Chumash presents its mitzvot in 'units', we would certainly expect that the **first** 'unit', i.e. the one that follows the Ten Commandments, to be special. In our shiur, we undertake an analysis of the internal structure of this "ko tomar" unit, in an attempt to understand why specifically these mitzvot are recorded at this point, and in this manner.

SUB-DIVIDING THE UNIT

At first glance, these three chapters appear to contain simply a random set of laws, from all types of categories - as it jumps back and forth from "bein adam la'makom" [laws between man & God] to "bein adam l'chaveiro" [laws between man and his fellow man (or society)]. On the other hand, there does seem to be some very logical internal structure within certain groups of these laws, such as the civil laws in chapter 21.

To help make sense out of the overall structure of this unit, we begin by noting how the laws that both open and close this unit fall under the category of "bein adam la'makom".

Let's explain.

Recall how this "ko tomar" unit began (at the end of Parshat Yitro) with four psukim that discuss various laws concerning idol worship and building a mizbeiach [altar] (see 20:20-23). Clearly, this short 'parshia' deals with laws between man & God, and more specifically - how to worship (or not worship) Him.

Similarly, at the end of this unit, we find another set of laws that are "bein adam la'makom" - explaining how we are expected to worship God on the three pilgrimage agricultural holidays (the "shalosh regalim" / see 23:13-19).

[We consider these psukim the last set of laws, for immediately afterward (i.e. from 23:20 till the end of chapter 23) we find several conditional promises that God makes concerning how He will help Bnei Yisrael conquer the land, but the law section of this unit definitely ends with 23:19.]

In this manner, we find that this lengthy set of laws in Parshat Mishpatim is enveloped by a matching set of laws (20:20-23 & 23:13-19) that discuss how to properly worship God.

Inside this 'sandwich' we will find numerous laws (i.e. from 21:1 thru 23:12), however almost all of them will fall under the category of "bein adam la'chaveiro" - between man and his fellow man (or society).

The following table summarizes this very basic sub-division of this "ko tomar" unit, which will set the framework for our next discussion:

PSUKIM	**TOPIC**
20:19-20:23	How to worship God via the 'mizbeiach'
21:01-23:12	A misc. assortment of civil laws
23:13-23:19	Worshiping God on the 3 pilgrimage holidays

23:20-23:33 --- God's promises re: entering the land

With this in mind, lets examine the internal structure of the "bein adam la'chaveiro" laws, that begin with the Mishpatim in 23:1 thru 23:12. As we will now show, this 'middle section' of civil laws will divide very neatly into two basic categories.

1) Case laws - that go before the "bet-din" [a Jewish court]
2) Absolute laws - that guide the behavior of the individual

THE MISHPATIM - CASE LAWS

Parshat Mishpatim begins with the laws of a Hebrew slave (see 21:2-11) and are followed by numerous 'case-type' civil laws dealing primarily with damages ["nezikin"'] that continue thru the middle of chapter 22. Their presentation develops in an organized, structured manner, progressing as follows:

21:12-27 - a person killing or injuring another [assault]
21:28-32 - a person's property killing or injuring another person
21:33-36 - a person's property damaging property of others
21:37-22:3 - a person stealing from another
22:4-5 - property damage to others caused by grazing or fire
22:6-14 - responsibility of "shomrim" watching property of others
22:15-16 - financial responsibility for a 'seducer'

Note how these various cases range from capital offense to accidental property damage.

THE 'KEY' WORD

As you most probably noticed, the 'key word' in this section is 'ki' [pun intended], which implies **if** or **when**. Note how most of the parshiot from 21:1-22:18 begin with the word 'ki' [or 'im' / if/ when] and even when it is not written, it is implicit. In other words, each of these 'mishpatim' begins with a certain **case** [if...] and is followed by the ruling [then...]. For example:

If a man hits his servant **then**... (see 21:20);
If an ox gores a man... **then** the ox must be stoned (21:28).

Basically, this section contains numerous examples of 'case-law,' upon which the Jewish court (**bet din**) arrives at its rulings. This is the basic meaning of a "mishpat" - a **case** where two people come to court - one person claiming damages from another - and the **shofet** (judge) must render a decision. In fact, these cases can only be judged by a court, and not by a private individual.

[As you review these cases, note how most of them fall under the category of "choshen mishpat" in the shulchan aruch.]

As our above table shows, this section of 'case-laws' (beginning with the word "ki") continues all the way until 22:16; after which we find an interesting transition. Note, that beginning with 22:17, we find three laws, written in a more imperative form, that do not begin with a specific 'case':

"A sorceress **shall not** be left alive. Anyone lying with an animal **shall be killed**, and one who sacrifices to [other] gods **shall be excommunicated**..." (see 22:17-19).

These laws don't begin with the word 'ki' for a very simple reason - there is no plaintiff coming to court to press charges! In all the cases until this point, the process of 'mishpat' is usually initiated because the plaintiff comes before the court. In these three cases, it is the court's responsibility to initiate the process (see Rashi & Rashbam & Ramban on 22:17!), i.e. to find the sorceress, or the person 'lying with the animal', etc. Therefore, even though these laws are presented in the 'imperative' format, they remain the responsibility of "bet-din".

These three cases are also quite different from the case-laws above, for they also fall under the category of "bein adam la'makom" [between God & man].

Most significant is the third instruction - "zoveyach la'elokim yo'cho'ram - bilti l'Hashem l'vado" - one who sacrifices to [other] gods shall be excommunicated..." - where once again we find a law concerning 'how to (or not to) worship God' - just as we find in the opening and closing sections that envelope these civil laws.

In this sense, these three laws will serve as a 'buffer' that leads us to the next category, where the laws will continue in the 'imperative' format, however, they will leave the realm of "bet-din" and enter the realm of ethical behavior. Let's explain:

THE ETHICAL LAWS

Note the abrupt change of format that takes place in the next law:

"You **shall not wrong** a **stranger** or oppress him, for you yourselves were strangers in the land of Egypt" (22:20).

Not only is this law written in the imperative format, it contains no punishment by "bet-din". Instead, it includes an incentive for why every Jew should keep this law - for we ourselves were also once strangers in the land of Egypt!

Note as well how this imperative format continues all the way until 23:10. In contrast to what we have found thus far, we now find a collection of **imperative**-style laws [i.e**. do**... or **don't**...], which appear to be beyond the realm of enforcement by **bet-din**. This section focuses on laws of individual behavior that serve as guidelines that will shape the type of society which God hopes to create within His special nation.

Towards the conclusion of this 'ethical' unit, we find a pasuk that seems to simply repeat the same verse that opened this unit:

"You **shall not oppress** a **stranger**, whereas you know the **feelings** of a stranger, for you yourselves were once strangers in the land of Egypt" (see 23:9).

[and compare it to the opening statement of this unit: "You **shall not wrong** a **stranger** or oppress him, for you were strangers in the land of Egypt" (see 22:20).

As your review the numerous laws that are 'enveloped' by these two 'matching' psukim, note how they are all written in the imperative form, and share a common theme of living by a higher ethical standard.

To prove this assertion, let's study the progression of topic from 22:20 thru 23:9:

* "You shall not mistreat any widow or orphan. If you do mistreat them, **I will heed their outcry**...."
* "When you lend money... if you take his garment as a pledge, you must return it by sunset... for if you don't, when he calls out to me, surely, **I will hear his cry**..." (see 22:20-26).

In contrast to the previous section (see 20:12 thru 22:16), where the court enforced the punishment - this section begins with a set of laws where God Himself threatens to enact punishment! As the court system cannot 'force' every member of society to treat the poor and needy with kindness, God Himself promises to 'intervene' should the 'less privileged' be mistreated.

Furthermore, it is specifically the stranger, the orphan, and widow who would least likely know how to take their case to court. As it is so easy to take advantage of these lower social classes, God Himself will punish those who take advantage.

BEING A 'GOOD CITIZEN'

The next four psukim (22:27-30) form a 'parshia', and at first glance appear to fall under the category of 'bein adam la'makom". However, in their context, it is also possible to understand them as laws dealing with the behavior of the individual within society, or stated more simply - being a good citizen. Let's explain how.

"Do not curse Elokim [either God or a judge / see 22:7]:, nor curse a leader of your people" (see 22:27).

This instruction 'not to curse your leaders' can be understood as a nice way of saying - respect your leadership. It would be difficult to develop a just society, should the people consistently curse and show no respect for their judges and political leaders.

The next law - "Do not delay to bring of the fullness of thy harvest, and the outflow of thy presses" (see 22:28) - could also fall under this category, as it refers to the obligation of every individual to tithe his produce. As this tithe is used to cover the salaries of civil servants (for example see Bamidbar 18:21 re: the salary of the Levi'im), this law could be paraphrased as a demand

that everyone must 'pay their taxes' - and on time; yet another example of 'good citizenship'.

Similarly, the next law:

"Your shall give Me your first-born sons. Likewise, [the first born] of your oxen & sheep..." (see 22:28-29) - was first given when Bnei Yisrael left Egypt (see Shmot 13:1-2,11-14).

Obviously, this commandment does not imply that we actually sacrifice our first born children; but rather it relates to the obligation of each family to dedicate their first-born son to the service of God. The purpose of this law was to assure that there would be an 'educator' (or 'civil servant') in each family - to teach the laws of the Torah.

Even though this 'family responsibility' was later transferred to the entire tribe of Levi (after chet ha-egel / see Devarim 10:8-9); at the time when the laws of Parshat Mishpatim were given - this was supposed to be the job of the first-born son. Similarly, the value of the 'first born' animals would also be dedicated to the Temple treasury (or to feed the workers).

If this understanding is correct, then this command serves as a reminder to each family to fulfill its responsibility to provide its share of 'civil servants' to officiate in the Mishkan and to serve as judges and educators (see Devarim 33:10).

[Re: viewing the first-born animals as a tax to compensate those civil servants - see Bamidbar 18:15-20!]

ACTING LIKE A 'MENSCH'

In the final pasuk of this 'parshia' we find a very general commandment to be not only a good citizen, but also to act like a 'mensch':

"And you shall be holy men unto Me; [an example] should you find the flesh that is torn of beasts in the field - do not eat it -feed it instead to the dogs" (22:30).

Even though the opening statement - to be holy men- is quite vague; the fuller meaning of this commandment is detailed in Parshat Kedoshim (see Vayikra chapter19). A quick glance of that chapter immediately points once again to the need to act in an ethical manner in all walks of life. [Note the numerous parallels between Vayikra chapter 19 and Shmot 22:20-33:10!]

The commandment 'not to eat the flesh of a torn animal' can be understood as an application of how to 'be holy', implying to act like a 'mensch', and not like gluten who would devour (like a dog) the meat of animal found dead in field.

In summary, we claim that this short section focuses on the need to be a 'good citizen', consonant with the general theme of ethical behavior - and incumbent upon a member of a society who claims to be representing God.

A HIGHER ETHIC

In chapter 23, this unit 'progresses' one step further, with several mitzvot that emphasize an even higher level of moral and ethical behavior.

The first three psukim discuss laws to ensure that the judicial system will not be misused - For example, not to plot false witness; to follow majority rule; and not to 'play favorites' in judgment (see 23:1-3).

[These laws could also be viewed as guidelines for the 'judges' who decide the laws in the first section, i.e. the civil 'case-laws' in 21:12-22:16.]

Next, we find two interesting laws that reflect the highest level of ethical behavior, which worded in a special manner.

* Returning a lost animal, even that of your enemy, to its owner ('hashavat aveida') (see 23:4);
* Helping your neighbor's animal (again, even your enemy) with its load ('azov ta'azov imo') (see 23:5);

The Torah does not simply command us to return a lost item, it describes an extreme case, where one must go out of his way to be 'extra nice' to a person whom he despises. What may be considered 'exemplary behavior' in a regular society - becomes required behavior for a nation who represents God.

Finally, this special section concludes with the famous dictum "mi-dvar **sheker** tirchak" - keeping one's distance from any form of dishonesty (see 23:7), followed by a warning not to take bribes - 've-**shochad** lo tikach' - (see 23:8).

As mentioned earlier, this section, describing the mitzvot of a higher ethical standard, closes with the verse "ve-ger lo tilchatz..." (see 23:9) - almost identical to its opening statement (see 22:20).

Despite the difficulty of their slavery in Egypt, Bnei Yisrael are expected to **learn** from that experience and create a society that shows extra sensitivity to the needs of the less fortunate. Specifically the Jewish nation - **because** we were once slaves - are commanded to learn from that experience, in order to become even **more** sensitive to the needs of others!

SHABBAT & THE HOLIDAYS

As we explained earlier, this 'ethical' section is followed by yet another set of mitzvot (see 23:10-19), which appears to focus on 'mitzvot bein adam la-Makom'. It includes the following mitzvot:

'Shmitta' - leaving the fields fallow every **seven** years;
'Shabbat' - resting one day out of every **seven** days;
'Shalosh regalim' - the three agricultural holidays:
'chag ha-matzot' - seven days eating matza
'chag ha-katzir' - wheat harvest (**seven** weeks later)
'chag ha-asif' - produce harvest (**seven** days).
(23:10-19)

Nonetheless, it should be noted how the laws of shmitta and shabbat are actually presented from the perspective of 'bein adam le-chavero'. The 'shmitta' cycle provides extra food for the poor and needy (see 23:11), while 'shabbat' provides a day of rest for the 'bondsman and stranger' (see 23:12). In this sense, these two laws form a beautiful transition from "bein adam la'chaveiro" section to the concluding "bein adam la'makom" section that 'closes' this entire unit.

At this point, we find a short summary pasuk that introduces the last section describing the pilgrimage 'holidays' (see 23:13-19). These 'shalosh regalim' are described as three times during the year when the entire nation gathers together 'in front of God' (i.e. at the Bet Ha-Mikdash) to thank Him for their harvest.

[One could suggest that this mitzvah of 'aliya la-regel' also influences the social development of the nation, for it provides the poor and needy with an opportunity to celebrate together with the more fortunate (see Devarim 16:11,14-16.)]

A 'DOUBLE' SANDWICH - TZEDAKA & MISHPAT

Let's return now to note the beautiful structure of this entire unit by studying the following table, where a * denotes laws "bein adam la'makom" and a # denotes laws "bein adam la'chaveiro".

To clarify this layered nature of this internal structure, in the following table we compare it to a 'sandwich' with two layers of 'meat', enveloped by 'bread',

* TOP - Laws re: idol worship and the 'mizbeiach' (20:19-20:23)
[i.e. how to worship God]

LAYER 1 - # The civil laws - 'case' laws for "bet-din" (21:1-22:16)
- i.e. laws that relate to MISHPAT - judgement

* BUFFER - short set of laws "bein adam la'makom" (22:17-19)

LAYER 2 - # The ethical laws -individual behavior (22:20-23:12)
- i.e. laws that relate to TZEDAKA - righteousness

* BOTTOM - Laws of the three pilgrimage holidays (23:13-19)
[again, how to properly worship God]

In other words, the few mitzvot that relate to how we are supposed to worship God (*) 'envelope' the numerous mitzvot that explain how God expects that we act (#). However, those mitzvot that govern our behavior also divide into two distinct groups. The first group (or layer) focuses on laws of justice that must be

enforced by the court system - i.e. MISHPAT; while the second group focuses on ethical behavior - i.e. TZEDKA or righteous behavior.

BACK TO AVRAHAM AVINU!

If your remember our shiurim on Sefer Breishit, this double layered structure - highlighting elements of both TZEDAKA & MISHPAT - should not surprise us. After all, God had chosen Avraham Avinu for this very purpose:

> "For Avraham shall surely become a great and mighty nation, and a blessing for all the nations of the earth. For I have known him IN ORDER that he may command his children and his household after him, that they may keep the way of God to do TZEDAKA & MISHPAT [righteousness and justice]..." (see Breishit 18:18-19, compare Breishit 12:1-3)

Now that Avraham Avinu's offspring have finally become a nation, and now prepare to enter the land - they enter a covenant at Har Sinai. Therefore, the very first set of detailed laws received at Sinai focus on how the nation of Israel is expected to keep and apply the values of "tzedaka & mishpat" - in order that this nation can accomplish its divine destiny.

AN EDUCATIONAL PROGRESSION

Before we conclude, we should note yet another sequence that takes place within these various subsections of laws. As you review these various sections, note how they follow a very meaningful educational progression:

I. THE FEAR OF MAN

The first section (21:1-22:19) contains civil laws regarding compensatory obligations, common to any civilized society (not unique to Am Yisrael). These case-type laws are enforced by **bet-din**. The fear of punishment by the courts ensures the compliance of the citizenry.

II. THE FEAR OF GOD

The next section (22:20-26) contains imperatives related to ethical behavior, emphasizing specifically consideration for the less fortunate members of society. Given the difficulty of enforcing this standard by the **bet-din**, God Himself assumes the responsibility of punishing violators in this regard.

III. LOVE FOR ONE'S FELLOW MAN

The final section of imperative civil laws (23:1-9) contains mitzvot relating to an even higher moral and ethical standard. In this section, the Torah does not mention any punishment. These mitzvot are preceded by the pasuk "ve-anshei **kodesh** tihiyun li" (22:30) and reflect the behavior of a "mamlechet kohanim ve-goy **kadosh**" (see 19:5-6). When the civil behavior of God's special nation is motivated not only by the fear of punishment, but also by a high ethical standard and a sense of subservience to God, the nation truly becomes a 'goy **kadosh**' - the purpose of Matan Torah (see 19:5-6!).

IV. THE LOVE OF GOD

After creating an ethical society, the nation is worthy of a special relationship with God, as reflected in the laws of shabbat, shmitta, and 'aliya la-regel' - 'being seen by God' on the three pilgrimage holidays (see 23:10-17).

This progression highlights the fact that a high standard of ethical behavior (II & III) alone does not suffice. A society must first anchor itself by assuring justice by establishing a court system that will enforce these most basic civil laws (I). Once this standard has been established, society can then strive to achieve a higher ethical level (II & III). Then, man is worthy to encounter and 'visit' God (IV).

ONE LAST PROMISE

Even though the 'mishpatim' and mitzvot end in 23:19, this lengthy section (that began back with 'ko tomar...' in 20:19) contains one last section - 23:20->33 - which appears as more of a **promise** than a set of laws. God tells Moshe to tell Bnei Yisrael that:

> "Behold, I am sending a **mal'ach** before you, to guide you and bring you to ... (the Promised Land). ... for if you obey him [God's 'mal'ach'] and do all that I say, I will be an enemy to your enemies and a foe to your foes. For My **mal'ach** will lead you and bring you to [the land of] the Amorites, Hittites, etc." (23:20-23). [See also 23:27-31!]

This conclusion points to the **purpose** of the entire unit. By accepting these laws, Bnei Yisrael will shape their character as God's special nation. Hence, **if** they obey these rules, **then** God will assist them in the conquest of the Land.

Considering that Bnei Yisrael are on their way to conquer and inherit the Land, this section (23:20-33) forms an appropriate conclusion for this entire unit. Should they follow these laws, He will help them conquer that land, where these laws will help facilitate their becoming God's special nation.

BACK TO BRIT SINAI

This interpretation can provide us with a beautiful explanation for why Bnei Yisrael receive specifically this set of mitzvot immediately after the Ten Commandments.

Recall God's original proposal to Bnei Yisrael before Ma'amad Har Sinai - "should they obey Me and keep My covenant... then they will become a - mamlechet kohanim ve-goy kadosh" (see Shmot 19:5-6). After the people accept this proposal (see 19:8), they receive the Ten Commandments, followed by the laws of the "ko tomar" unit.

This can explain why Bnei Yisrael receive specifically these laws (of the "ko tomar unit") at this time. As these laws will govern the ethical behavior of every individual in Am Yisrael and build the moral fabric of its society, they become the 'recipe' that will transform this nation into a "mamlechet kohanim ve-goy kadosh".

Furthermore, they emphasize how laws that focus on our special relationship with God, especially in relation to how we worship him - such as the laws of the holidays, are only meaningful when rooted in a society that acts in an exemplary fashion.

Because these guidelines for individual behavior are 'enveloped' by details of how to properly worship God, we can essentially conclude that this entire unit discusses how the nation of Israel is expected to worship God - for the manner by which we treat our fellow man stands at the center of our relationship with God.

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. NISHMA VE-NA'ASEH!

Based on this interpretation, we can suggest a very simple explanation for why Bnei Yisrael declare '**na'aseh** ve-**nishma'** at the ceremony at Har Sinai (as see 24:7). [According to Ramban's approach that we keep 24:1-11 in its chronological order.]

If indeed **sefer** ha-**brit** includes the unit from 20:19-23:33, then God's promise to help Bnei Yisrael conquer the land should they listen to Him (23:20-23:23) forms the most basic statement of this **covenant**:

> "Ki im **shamo'a tishma** be-kolo, **ve-a'sita** kol asher adaber - For **if** you **listen** to what He [the **mal'ach**] says, and **do** whatever I will speak... **then** I will help you defeat your enemies..." (see 23:21-22).

One could suggest that it is in response to this phrase that Bnei Yisrael declare:

> **na'aseh** - in response to: ve-**asita** kol asher adaber;
> ve-**nishma** - in response to: im **shamo'a tishma** be-kolo.
> [Carefully read the middle section of Ramban's peirush to 24:3 where he alludes to this interpretation.

[Note that even according to Rashi's interpretation that sefer ha-brit in 24:7 includes the laws at **Mara**, the final words of God's charge at **Mara** (see 15:26) could provide the background for a similar explanation. One could suggest that Bnei Yisrael respond by saying **na'aseh** to ve-hayashar be-einav **ta'aseh** and **nishma** to "im shamo'a tishma..."! Of course, this could also relate to God's proposal in 19:5-6.]

B. Regarding to the order of NA'ASEH ve-NISHMA:

According to our explanation above, Bnei Yisrael should have said this in the opposite order, i.e. **nishma** ve-**na'aseh**. Relate this to Chazal's question in the Midrash - "lama hikdimu na'aseh le-nishma", which applauds Bnei Yisrael for **first** accepting the laws which they haven't yet heard. [Relate to "et asher **adaber**"!]

C. SOUND BYTES

Many of the mitzvot in Parshat Mishpatim from 22:26-23:19 could be viewed as 'sound-bytes' for entire 'parshiot' that expound on these mitzvot in Sefer Vayikra and Sefer Devarim.

1. Attempt to find examples, e.g. 23:10 to Vayikra 25:1-8; 23:14 to Devarim 16:1-17.
2. Use this to explain the nature of Parshat Mishpatim.
3. How does this enhance our understanding of the ceremony in perek 24? Relate to 'sefer ha-brit'.
4. Based on the above shiur, explain why Chazal interpret the law of "va-avodo le-olam" (21:6) - when an 'eved ivri' agrees to work 'forever' - as referring to the end of the seven cycles of shmitta, i.e. the 'yovel' year - see Rashi 21:6 and Vayikra 25:8-11.

D. AVOT & TOLADOT

We mentioned in the shiur that the mitzvot in Mishpatim can be understood as 'toladot' of the Ten Commandments. See Ibn Ezra's observation of this point. See also Abravanel.

1. Attempt to find examples of dibrot V->X within the civil laws.
2. Explain why the laws concerning the mizbeiach should be considered toladot of "lo tisa et shem Hashem Elokecha la-shav."
3. How does 'shem Hashem' relate to the concept of mizbeiach? Relate to Breishit 12:8, 13:4, etc.
4. How does 23:20-22 relate to this same idea of 'shem Hashem'? - see shiur below

THE 'TOLADOT' OF THE 'DIBROT' [a mini shiur]

In the following mini-shiur, we discuss once again the progression of mitzvot in the "ko tomar" unit, but this time from a different perspective.

Just as we have shown how these mitzvot follow an 'educational progression,' we will now show how (and why) they follow ('more or less') according to the order of the Ten Commandments.

Let's begin by showing how the opening section of mitzvot in this unit (i.e. 20:19-23 / the 'bein adam la-Makom' mitzvot) can be viewed as 'toladot' (sub-categories) of the first three Commandments:

*1. 20:19
"You have seen how I have spoken to you from heaven" - thus emphasizing belief in God's **hitgalut** at Har Sinai. This could be considered parallel to the first 'dibur' - "Anochi Hashem Elokecha asher hotzeiticha..."

*2. 20:20
"Don't make [with] Me gods of gold and silver..." - This prohibition of idol worship is obviously parallel to the second 'dibur': "lo yihiyeh lecha..."

*3. 20:21-23
"An earthen mizbeiach you shall make for Me...." - Even though this parallel is not as obvious, this commandment concerning how to build a mizbeiach may be compared to the third 'dibur': "lo tisa et **shem**..." - not to mention God's Name in vain. The parallel can be based on our study of Sefer Breishit where we saw how the mizbeiach forms an avenue by which Avraham declared God's Name to make it known to others. [See Breishit 12:8 and 13:4 and Ramban on 12:8.]

As Parshat Mishpatim continues this "ko tomar" unit, we can continue to find additional parallels to the remaining dibrot. Just as we found 'toladot' of the first three 'dibrot', so do we find 'toladot' of the fourth commandment - i.e. 'shabbat'. In fact, both the opening and closing sections of the mitzvot relate to shabbat. The opening mitzva, the law of a Hebrew servant (21:1-6), is based on the concept of six years of 'work' followed by 'rest' (=freedom) in the seventh year. The closing mitzvot of 'shmitta', shabbat, and 'aliya la-regel' (23:10-19), are similarly based on a seven-day or seven-year cycle.

In between these two 'toladot' of shabbat, we find primarily 'mitzvot bein adam le-chavero' (21:1->23:9), which can be considered 'toladot' of the fifth through tenth Commandments.

The final section, describing God's promise to help Bnei Yisrael conquer the land should they keep these mitzvot, continues this pattern in descending order:

23:20-23 The **mal'ach** with "shmi be-kirbo" -> III. "lo tisa"
23:24 - Not to worship their idols -> II. - "avoda zara"
23:25 - Worshipping God and its reward... -> I. Anochi

This structure, by which the 'mitzvot bein adam la-Makom' that govern our relationship with God (I->IV) serve as 'bookends' enclosing the **mishpatim** [the civil laws and ethical standards regarding one's relationship to fellow men (V-X)], underscores an important tenet of Judaism. Unlike pagan religions, man's relationship with other people constitutes an integral part of his unique relationship with God.

YITRO / MISHPATIM - A CHIASTIC STRUCTURE

The following table illustrates how this progression of the mitzvot according to the **dibrot** helps form a chiastic structure, which encompasses the entire unit from Shmot chapters 19->24.

Note the chiastic A-B-C-D-C-B-A structure that emerges:

A. **Brit** & the **dibrot** at **Har Sinai** (19:1-20:18)
| B. Mitzvot - I, II, III (20:19-23) ['bein adam la-Makom']
| | C. Eved Ivri (IV) [21:1-> 'bein adam le-chavero']
| | | D. Misc. civil laws (V-X) / causative & imperative
| | C. Shmitta, shabbat, regalim (IV)
| B. Mitzvot - III, II, I (23:20-33) ["bein adam la'makom"]
A. The 'Brit' of 'na'aseh ve-nishma' at **Har Sinai** and Moshe's ascent to receive the 'luchot' containing the 'dibrot'.

A chiastic structure (common in Chumash) usually points to a common theme and purpose of its contents. In our case, that theme is clearly 'Ma'amad Har Sinai'. This unit of 'Ma'amad Har Sinai' (Shmot 19->24) continues the theme of the first unit of Sefer Shmot (1->18), the story of Yetziat Mitzrayim.

We conclude our shiur by relating this structure to the overall theme of Sefer Shmot, as discussed by Ramban in his introduction to the sefer.

As we explained, Yetziat Mitzrayim (our redemption from Egypt) constituted the **first** stage in God's fulfillment of **brit avot**. Now, at Ma'amad Har Sinai, Bnei Yisrael enter a **second** stage, as they collectively accept God's covenant and receive the Torah (**brit Sinai**). These laws, especially those of Parshat Mishpatim, will help form their character as God's special nation - in order that they can fulfill the **final** stage of 'brit Avot' - the inheritance of the Promised Land and the establishment of that nation.

Parshas Mishpatim: God's Judgment and Human Judges

By Rabbi Yitzchak Etshalom

I. DO NOT SLAY THE INNOCENT AND THE RIGHTEOUS

Parashat Mishpatim, while being the first "collection" of Halakhah (law), expands on the theme of proper judges as introduced in Parashat Yitro (18:21). After presenting a lengthy list of civil and criminal laws, the Torah gives the following "advice" to the judges who are to administer these rules:

"[Distance yourself from a false matter;] do not slay the innocent and the righteous, Ki Lo Atz'dik Rasha' (for I will not exonerate the wicked)." (23:7) The second half of the verse begs explanation. The Hebrew *ki*, translated here as "for", is intended to express causality. To wit –

"…do not slay the innocent and the righteous; [the reason] for [that is that] I will not exonerate the wicked."
God is commanding us to exercise great care in carrying out capital punishment; the cause given, however, doesn't seem to have anything to do with the effect. How does God's relentless justice "I will not exonerate the wicked" explain the command to not slay the innocent and righteous?

II. RASHI'S EXPLANATION

Rashi, following the lead of the Mekhilta (Horovitz pp. 327-8) and the Gemara (BT Sanhedrin 33b) interprets the phrase as follows:
"Do not slay the innocent and the righteous:

How do we know that if one exits the court as a convicted man and someone said 'I can show merit for this man' that we return him to the court? Therefore Scripture teaches: 'Do not slay the innocent'- even though he is not righteous, for he was not found righteous in the first court, nevertheless he is *naqi* (innocent) of capital punishment for we have found merit. And how do we know that if one exits the court as an acquitted man, and someone said 'I can show guilt for this man' that we do NOT return him to the court? Therefore Scripture teaches: 'Do not slay the righteous'-this is the righteous one who was found righteous by the first court. For I will not exonerate the wicked:

It is not your responsibility to return him; for I will not find him innocent in My court if he escaped your hands as an innocent one – I have many agents to kill him with the death penalty he should have incurred." Although this interpretation reads well within this half of the verse, its readability becomes strained when read in the context of the entire verse; all the more so when seen as part of the surrounding verses: (Shemot 23:6- 9)

* Do not pervert the judgment of your poor man in his cause:

* Distance yourself from a false matter; do not slay the innocent and the righteous, for I will not exonerate the wicked:

* Do not take graft; for graft blinds the eyes of the sighted and perverts the words of the righteous:

* Do not oppress the stranger; you know the spirit of the stranger, for you were strangers in the land of Mitzrayim. Within the context of these verses, Rashi's explanation is difficult on several counts:

* According to Rashi, the end of our verse is not an admonishment; it serves as a source of consolation: "Don't be concerned that you have not executed justice properly, for I will do so". The thrust of these verses is clearly exhortative, however, and "consolation" does not fit smoothly within the context.

* How does the first part of our verse: "Distance yourself from a false matter" connect with the rest of the verse as read by Rashi?

* How can the same man be referred to as a naqi (innocent one) and a rasha' (guilty one) simultaneously? According to Rashi, the naqi "escaped" the grasp of the court on a technicality, but God will catch up with that rasha .

Rashi's interpretation follows the Oral Tradition and grants support for the juridical tradition of favoring acquittal over conviction. It further explains the cause-effect relationship in our verse "Do not slay…for I will not exonerate." It is, however,

not the smoothest p'shat (straightforward reading) in the verse; I would like to suggest another approach which will resolve the three problems we found with Rashi's comments.

III. ACCURATE JUDGMENT CONTINUES "MA'ASEH B'RESHEET"

Evaluating the p'shat will require a brief introduction. We must clarify the theological implications of humans sitting in judgment. Let's turn to the Gemara:

"'The nation stood by Moses from morning until evening'; do you really think that Moshe was sitting in judgment all day? When would he have time for Torah? Rather, this indicates that anyone who renders perfect justice for even one hour is considered a partner with God in Creation. Here it states: from morning until evening and over there (in B'resheet) it states: it was evening and morning one day." (BT Shabbat 10a) Man, created in the image of God, has the opportunity to become His partner in the ongoing process of creation. The central feature of the Creation is creating order out of chaos – creating light, then dividing light from dark; creating plants, each that will regenerate according to its own species; creating animal life and eventually humans that will reproduce according to their own kind. That phrase is repeated often enough in the first chapter of B'resheet that it becomes the anthem of creation. What is creation? Defining boundaries: light up to here, dark from here on; apples here, oranges there; birds up there, fish down there, animals over here and humans over there. The judge who does his job properly continues the process of making order out of chaos. That which is unlawfully taken is returned, that which is owed is paid. No man, rich or poor, is favored in this regard. The judge sees clearly and objectively, for he is not motivated by the greedy interests of the morally blind, rather by the enlightened self-esteem of the morally conscious.

This position can be explained in two ways.

1) Conventionally, we understand Man's goal to be "Imitatio Dei" – imitating God. This objective is expressed in the Gemara (BT Sotah 14a) " ' After the Lord your God shall you walk:' Is it possible to follow the Divine Presence?…rather emulate His traits…" The judge is, arguably, in the best position to fulfill this command. This view is supported by the verse which first implies mortal judges: "He that spills the blood of man, by man shall his blood be spilt, for in the image of God did He make man." (B'resheet 9:6) This last phrase can be interpreted as justification for capital punishment: The man who judges the murderer was created in God's image and can judge his fellow-even to be killed.

2) There is yet another way of explaining the role of the judge: To coin a phrase from the world of school law: "In locus Deis" – Man sits in judgment not as an emulator of the Divine, rather as His agent (see BT Nedarim 35b in re the Kohanim). Instead of trying to "follow" God, the judge is serving as His earthly arbiter of justice; hence the twofold meaning of Elohim as both "God" and "Court" (e.g. Shemot 21:6). The verses surrounding "Distance yourself from a false matter…" address this aspect of judgeship.

IV. VERBAL AND THEMATIC STRUCTURES – A BRIEF REVIEW

Although the Torah is normally read sequentially, there is a literary phenomenon which occasionally supplants sequential reading. This phenomenon, which we introduced two weeks ago is known as "chiasmus", named after the Greek letter 'Chi' which is shaped like an 'X'.
In a chiastic structure, the extremities focus toward the middle. For example:

"Nations will hear and be afraid, trembling will take hold of the inhabitants of K'na'an" (Shemot 15:14). The form here is "A B B A", where 'A' is the people ("Nations….inhabitants of K'na'an) and 'B' is the verb ("be afraid, trembling will take hold").

Written sequentially, this verse would is read: "Nations will hear and be afraid, the inhabitants of K'na'an will tremble when they hear."

Chiasmus is a poetic form which is not only a literary adornment, it establishes focus by placing the central theme or cause at the center of a phrase, verse or chapter. We can restructure our verse as follows:

A——>Nations

B——>will…be afraid;

B—–>trembling will take hold

A—–>inhabitants of K'na'an There are many examples of verbal chiasma.

(See A. Hakohen, "'Al Mivnim Khiastiim beSefer Devarim uMashma'utam" 'Alon Shevut 103 pp. 47-60; for more information on chiastic structure, see our shiur on Parshat B'Shalach from this year.)

A different sort of chiasmus exists in T'nakh. Whereas verbal chiasmus plays phrases or words off of each other, thematic chiasmus places related themes or ideas at the 'A' and 'B' locations respectively. Whereas in an earlier shiur, we utilized this approach to explain six and half chapters of text, it can be applied on a more "local" level.

For example:

"Remember that which 'Amalek did to you…wipe out any commemoration of 'Amalek from under the heavens; do not forget" (Devarim 25:17-19) may be structured as follows:

A—>Remember

B———->…that which 'Amalek did to you

B———->wipe out any commemoration of 'Amalek from under the heavens (what they did to you and what you do to them connects the two "B" sections)

A—>…do not forget (see Sifre ad loc. for the connection between the two "A" sections)

V. STRUCTURAL ANALYSIS OF OUR VERSES

Our section is a thematic chiasmus. There are five sections, as follows:

A—>Do not pervert the judgment of your poor man in his cause:

B———->Distance yourself from a false matter; do not slay the innocent and the righteous,

C———————>for I will not exonerate the wicked:

B———->Do not take graft; for graft blinds the eyes of the sighted and perverts the words of the righteous:

A—>Do not oppress the stranger; you know the spirit of the stranger, for you were strangers in the land of Mitzrayim.

The 'A' phrases are thematically unified. The Torah is warning the judge against a danger inherent in the powerful position of the magistrate: single-minded concern with the letter of the law. The spirit of the Torah engenders sympathy and compassion for those less fortunate than us. The judge must, first and foremost, be a man of compassion. His zeal for justice must spring from a limitless well of concern for society and its members. The vision of an efficient society which runs smoothly at the expense of its individual's rights is anathema to Torah. The judge must not forget that the poor man is "your poor man" – your responsibility and your brother. Seeing a stranger, the judge might perceive him as a threat to the stability of the society which he protects. "No" says the Torah; "you know the spirit of the stranger" and there but for the grace of God goes the judge himself. (See the Haggadah "and if God had not taken us out of Egypt, we and our children and our grandchildren would still be enslaved to Pharoah") Sympathy, and its handmaiden, compassion, are the products of the awareness of how close we all are to tragedy; how easy it is for any one of us to become the poor man arguing his cause, or the stranger looking for refuge. The sense of shared danger, or at least a potentially common misery, is the single most powerful motivation for sympathy. "How would I feel if I were in that man's situation? How would I want to be treated?" In the Halakhic scheme, the response is always: "That's how I'll treat him."

The 'B' phrases serve as a counterbalance to the compassion mentioned above. The judge, apprised of the demands of compassion placed upon him, might pervert justice due to that selfsame compassion. "The poor man is so much needier," thinks the compassionate judge, "the rich can afford to lose; the poor man is probably innocent; I must show him mercy." The Torah warns of that perversion in the 'B' phrases: "Distance yourself from a false matter…do not take graft." The false

matter and the graft referred to here are internal: i.e. the rationalizations with which we blind ourselves (see BT Shavuot 30). We ignore the trespasses of friends much as we turn a blind eye to the righteousness of our enemies; neither fits the image we'd like to maintain. The judge must be wary of this potential in his own psyche. His compassion is the necessary starting point; judging without soul is judging without the image of God. The fairness which must overrule compassion is the crowning feature of the judge. A judge who is fair without feeling the tension of sympathy is not a man; the judge who allows his sympathy to decide the case is not a judge.

"God saw that the world couldn't exist by strict justice alone, so he added compassion…" (Rashi to B'resheet 1:1) We might add that "the judge cannot rule by compassion alone, he must add strict justice…"

VI. THE FULCRUM OF OUR CHIASMUS: GOD'S JUDGMENT

As we explained in our discussion of the Mahn (Parashat B'shalach), the purpose of a chiasmus is to highlight the central feature, which we called the "fulcrum" of the chiasmus. In our case, the 'A' and 'B' phrases serve to mitigate tendencies which judges may have which would pervert the environment of perfect justice. The 'C' phrase is the explanation and foundation of our section:
"…for I will not exonerate the wicked":

The judge, "playing God" as he does, might come to the conclusion that his mandate is expansive. As long as God granted him the right and charged him with the responsibility of judging his fellow, any verdict that he delivers might be acceptable. This is the most common abuse of power; to wit: " I am all-powerful, no one can stop me." At this point, the Torah warns the judge that while he judges others, he is being judged. "I will not exonerate the wicked [judge]." If justice cannot flow from the almost impossible synthesis of fairness and compassion, it will creep from the fear of God. The judge must beware that God's mandate is not a carte blanche for any kind of verdict; beware, lest His agency become perverted and His image tarnished.

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PARSHA INSIGHTS

by Rabbi Yaakov Asher Sinclair

It Ain't Over 'Til It's Over

"Everything that Hashem has said – we will do and we will obey." (19:8)

The "Sunday Dollars" are a well-known piece of Jewish folklore. The Lubavitcher Rebbe *zt"l* used to give out thousands of dollar bills to those who came to meet him on Sundays. Once, a young boy and his father came to get a dollar bill from the Rebbe. The Rebbe placed a crisp dollar bill into the hands of the father and then the son. As they were walking away, the Rebbe called them back and asked the young boy if he liked sports. "Sure!" said the young boy. The Rebbe asked him which sport he liked. "Baseball," was the reply. The Rebbe asked him what team he followed and the boy said, "The Dodgers." The Rebbe asked him when the last time he saw his team was. "Oh, it was about a month ago, but we didn't stay to the end. It was the bottom of ninth, with two outs, and the pitcher was up to bat. We were seven runs behind. The pitcher is a weak hitter and it was clear what would happen, so we left and went home. "And what did the players do?" inquired the Rebbe. "Well, I guess they played on till the end of the game." "They didn't leave?" asked the Rebbe. "No, well, they couldn't leave, they are the players. I'm just a supporter." The Rebbe said, "A Jew always has to be a player, not a supporter."

You can go through life in two ways: You can be a supporter, and when things aren't much fun you can quit, or you can go through life as a player and never give up until it's over, because "Everything Hashem has said, we will do and we will obey."

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Q & A

Questions

1. In what context is a mezuza mentioned in this week's parsha?
2. What special mitzvah does the Torah give to the master of a Hebrew maidservant?
3. What is the penalty for wounding one's father or mother?
4. A intentionally hits B. As a result, B is close to death. Besides any monetary payments, what happens to A?
5. What is the penalty for someone who tries to murder a particular person, but accidentally kills another person instead? Give two opinions.
6. A slave goes free if his master knocks out one of the slave's teeth. What teeth do not qualify for this rule and why?
7. An ox gores another ox. What is the maximum the owner of the damaging ox must pay, provided his animal had gored no more than twice previously?
8. From where in this week's parsha can the importance of work be demonstrated?
9. What is meant by the words "If the sun shone on him"?
10. A person is given an object for safe-keeping. Later, he swears it was stolen. Witnesses come and say that in fact he is the one who stole it. How much must he pay?
11. A person borrows his employee's car. The car is struck by lightning. How much must he pay?
12. Why is lending money at interest called "biting"?
13. Non-kosher meat, "treifa," is preferentially fed to dogs. Why?
14. Which verse forbids listening to slander?
15. What constitutes a majority-ruling in a capital case?
16. How is Shavuot referred to in this week's parsha?
17. How many prohibitions are transgressed when cooking meat and milk together?
18. What was written in the Sefer Habrit which Moshe wrote prior to the giving of the Torah?
19. What was the livnat hasapir a reminder of?
20. Who was Efrat? Who was her husband? Who was her son?

Answers

1. 21:6 - If a Hebrew slave desires to remain enslaved, his owner brings him "to the doorpost mezuza" to pierce his ear.
2. 21:8,9 - To marry her.
3. 21:15 - Death by strangulation.
4. 21:19 - He is put in jail until B recovers or dies.
5. 21:23 - (a) The murderer deserves the death penalty. (b) The murderer is exempt from death but must compensate the heirs of his victim.
6. 21:26 - Baby teeth, which grow back.
7. 21:35 - The full value of his own animal.
8. 21:37 - From the "five-times" penalty for stealing an ox and slaughtering it. This fine is seen as punishment for preventing the owner from plowing with his ox.
9. 22:2 - If it's as clear as the sun that the thief has no intent to kill.
10. 22:8 - Double value of the object.
11. 22:14 – Nothing.
12. 22:24 - Interest is like a snake bite. Just as the poison is not noticed at first but soon overwhelms the person, so too interest is barely noticeable until it accumulates to an overwhelming sum.
13. 22:30 - As "reward" for their silence during the plague of the first-born.
14. 23:1 - Targum Onkelos translates "Don't bear a false report" as "Don't receive a false report".
15. 23:2 - A simple majority is needed for an acquittal. A majority of two is needed for a ruling of guilty.
16. 23:16 - Chag Hakatzir ~ Festival of Reaping.
17. 23:19 - One.
18. 24:4,7 - The Torah, starting from Bereishet until the Giving of the Torah, and the mitzvot given at Mara.
19. 24:10 - That the Jews in Egypt were forced to toil by making bricks.
20. 24:14 - Miriam, wife of Calev, mother of Chur.

WHAT'S IN A WORD?

by Rabbi Reuven Chaim Klein

Digging Deeper

The first Mishna in *Bava Kama* (1:1) begins by listing four categories of damages for which a person might be responsible, with *bor* ("pit") listed second. That term refers to a case in which somebody dug a pit that ended up causing damage to another. The one who dug the pit is liable for all damages caused by the pit that he dug, as the Bible says, "When a man opens a pit, or when a man digs (*karah*) a pit and he does not cover it, and an ox or donkey falls into it, then the master of the pit shall pay; he shall recompense the owner…" (Ex. 21:33-34). While this verse uses the relatively obscure verb *karah* to denote "digging," the typical Biblical word for the verb of "digging" is *chofer*. In fact, throughout the Mishna (*Shevi'it* 3:10, *Bava Kama* 5:5, *Bava Batra* 2:12), the Rabbis consistently use the verb *chofer* — not *karah* — to denote the act of creating a *bor*. In this essay we will explore the possible differences between these apparent synonyms and help shed light on the exact meanings of these two terms.

The Malbim explains that *karah* refers to the first stage in digging a pit, while *chafirah* refers to the completion of the dig. With this in mind, the Malbim accounts for the word order in the verse, "He dug (*karah*) a pit, and he dug it (*chafirah*)" (Ps. 7:16). At first, he began to dig the pit, so the word *karah* is used to denote those first acts of digging, but subsequently the person in question dug deeper to the completion of the pit, so in that context a cognate of *chafirah* appears (see also Ibn Ezra, Ibn Ramoch, and Meiri to Ps. 7:16).

The Malbim notes that this distinction can also be inferred from the verses concerning Isaac and his wells, as an earlier verse relates "and Isaac's servants dug (*karah*) there a well" (Gen. 26:25), with a later verse talking about those same wells reporting, "On that day, Isaac's servants came, and they told him about the well that they dug (*chafirah*), and they said, 'We found water' " (Gen. 26:32). In the beginning, digging that well was expressed with the verb *karah* because they had only *begun to dig* the well, but in the end the digging is described with the word *chafirah*. This explanation of the wording regarding Isaac's wells is also found in *Ha'Ktav V'Ha'Kabbalah* by Rabbi Yaakov Tzvi Mecklenburg (1785-1865) and in *Ha'Emek Davar* by Rabbi Naftali Tzvi Yehuda Berlin (1816-1893).

Based on this, the Malbim explains that when laying down the law that one who digs a pit is liable for all damages stemming from that pit, the Torah specifically uses the word *karah*. This is in order to teach that even if one digs "an incomplete pit" (i.e. one that is less than ten handbreadths deep), he is still liable for any damages incurred (except for if an animal dies by falling into that pit, per *Bava Kama* 5:5). This is implied by the Torah using the slightly less common verbiage *karah* to denote "digging" the pit, which implies even the most basic digging that does not penetrate as deep into the ground as the term *chafirah* implies. (According to Even Shoshan's concordance, cognates of *chafirah* in the sense of "digging" appear in the Bible 23 times, while cognates of *karah* in the sense of "digging" appear 15 times.)

With this distinction between *karah* and *chafirah* in mind, Rabbi Berlin explains why the Bible used the word *karah* instead of *chafirah* in talking about Jacob's burial place. Before he died, Jacob made Joseph swear that he will bury him in the Land of Canaan: "In my grave that I have dug (*karah*) for myself in the Land of Canaan — there you shall bury me" (Gen. 50:5). Rabbi Berlin explains that the Bible does not use the word *chafirah* in this context because that would imply the ludicrous notion that Jacob had already dug a deep grave intended for his burial while he was still alive. Usually, a person does not literally dig their own grave during their lifetime. Instead, explains Rabbi

Berlin, Jacob merely meant that he had prepared a specific plot as his burial place, but not that he had actually dug the grave and completed all the preparations. Since Jacob meant that he had engaged in only perfunctory preparations for his burial but did not actually dig out the grave, the Bible used the word *karah*, which implies "digging" merely the beginning of a pit, as opposed to *chafirah*.

In a polemic against Modern Hebrew that highlights the richness and exaltedness of *Lashon HaKodesh*, Rabbi Shaul Bruch (1865-1940) notes that the Song of the Well uses the terms *karah* and *chafirah* in an opposite order than expected. That song reads: "O Well — she was dug (*chafirah*) by the officers, she was dug (*karah*) by the nation's noblemen" (Num. 21:18). If this verse meant to refer chronologically to the stages of digging a well, it should have first used the word *karah* and then *chafirah*. Why, then, do these terms appear in the opposite order?

Rabbi Bruch answers by noting that while the Torah specifies that the Song of the Sea was sung by Moses and the Israelites (Ex. 15:1), the Song of the Well was only said to be sung by the Israelites (Num. 21:17). Moses' absence can be accounted for in light of the fact that the song itself actually pays homage to Moses, as in this song the Jewish People acknowledged that although they ("the nation's noblemen") would undertake certain actions, the final results always depended on the nation's ultimate leaders — Moses and Aaron — "the officers" who would seal the deal. For example, although the Jews themselves valiantly fought against Amalek, it was Moses' raised hands (and the prayers to Hashem for help) that ultimately led them to victory.

Accordingly, the Song of the Well does not speak chronologically about the steps taken towards preparing a wellspring of water for the Jewish People in the wilderness. Rather, it reflects the qualitative reasons behind that miraculous entity: "She was dug by the officers" is mentioned first and foremost because those officers are Moses and Aaron in whose merit the well sprung into existence (see *Ta'anit* 9a). The *chafirah* — finalization — of the digging is attributed to them. Only after establishing the main reasons for the well's existence can the song move on to discuss the secondary reasons: "She was dug by the nation's noblemen," which refers to the rest of the nation. Their merits can only "start" the digging process (*karah*), but cannot complete the project without the leadership of Moses and Aaron.

Rabbi Samson Raphael Hirsch (to Gen. 26:25, 49:5) sharpens the difference between *karah* and *chafirah* by explaining that *karah* refers to mere preparatory digging that does not finish the project (per the above). He connects the word *karah* (KAF-REISH-HEY) to its near-homonym *kara* (KUF-REISH-ALEPH), "calling," noting that just as one calls over his friend in preparation for some greater purpose, so does *karah* denote the beginning stages of a larger digging project.

In contrast to this, Rabbi Hirsch understands that the term *chafirah* refers to "digging" so deep that one reaches the depths of the earth, and can thus bring up the spring waters embedded deep in the earth's crust. Besides the more concrete meaning of "digging," the word *chafirah* also appears in a more abstract sense, to "scout," "spy" or "investigate." Just as digging deep into the ground allows a person to retrieve the waters at the nadirs of the planet, so does the act of spying or investigating allow one to retrieve data or information that is otherwise hidden from view. (In Modern Hebrew, a nosey person is called a *chafran*.) Rabbi Mecklenburg similarly notes that in the context of "digging for information," *chafirah* has a negative connotation (as if to say that one is searching for negative info about another to bring to light) and may be related to the Hebrew word *cherpah* ("embarrassment"). Elsewhere, Rabbi Hirsch (to Ex. 21:33) explains that *karah* refers to preparatory pre-digging arrangements needed to dig a pit, while *chafirah* refers to the actual act of "digging."

Rabbi Pappenheim sees the word *karah* as reflective of the central meaning of the biliteral root KAF-REISH ("digging"), to which he ascribes a bevy of Hebrew terms united by various related themes:

- *Hakarah* ("recognizing") refers to the act of "digging" into one's mind to reach a conclusion before receiving all relevant facts. From this meaning are derived terms like *nochri* ("foreigner"), who is somebody that one does not "recognize," and *mechira*

("selling), which refers to the act of commercial intercourse that causes people to "recognize" each other, or by which a seller "estranges" himself from the items he sells by giving them to somebody else.

- *Kur* ("furnace") refers to a sort of oven or kiln that is "dug" into the ground. This term produces such derivatives as *kiyor* ("laver"), which is a washing vessel fashioned in the shape of a *kur*; *kikar* ("a talent"), which is the amount of metal that can be processed in a *kur* in one time; *kirah/kirayim* ("oven"), which is also "dug" into the ground like a *kur*; and *kikar* ("loaf of bread"), which is typically baked in a *kirah*.
- *Kar* ("fertile field") refers to a place whose borders were typically demarcated by "digging" ditches around its perimeter. *Karim* refers to the "fat animals" who feast on the grounds of a *kar*, and *kor* refers to the "measurement of grain" yielded by the typical *kar*. An especially large *kar* with luscious pasture lands is called a *kikar*. Knights who are granted fiefdoms over such lands are called *kreiti*, while a peasant who actually works such fields is called an *ikar*. The term *kerem* (literally, "vineyard") is also related to this meaning of KAF-REISH, because it refers to a land especially ripe for planting trees or vines.
- *Karet* ("cutting") also relates to "digging" in the sense that just as digging serves to break up the different parts of the dirt and separate them from each other, so does "cutting" serve to separate different pieces from each other.

In contrast to the terms for "digging" discussed earlier, the Malbim explains that *chatzivah* refers to "quarrying" and "excavating" with a hammer that chisels away at rock or hard ground. Nevertheless, Rabbi Yosef Kara (to Isa. 5:2) understands that *chatzivah* is a synonym to *karah* and *chofer*, except that it refers specifically to digging a round pit. He seems to relate the Biblical *chatzivah* to the Rabbinic term *chatzav* ("jug/pitcher"), which invariably refers to a round-shaped receptacle.

PEREK SHIRA: The Song of Existence

by Rabbi Shmuel Kraines

THE SONG OF THE CLOUDS

The clouds say: "He places darkness as His concealment, around Him is His shelter; darkness of water, clouds of the Heavens." (*Tehillim* 18:12)

Clouds bear life-giving water. Paradoxically, the more water they contain, the darker and gloomier they are, blocking the rays of the sun. Rain itself is notoriously a nuisance. The reason behind this paradox is that darkness and discomfort are blessings in disguise. Were one to live a life free of discomfort, he would become spoiled and would never reach the heights of greatness and spiritual pleasure that Hashem created him to reach. The clouds sing that Hashem "places darkness as His concealment" in order to discipline and educate.

When a person goes through a struggle and clouds form above him, one thing can be known for sure: it is going to rain. A wise man knows how to see all of life for its potential and maintain happiness at all times.

**In loving memory of Harav Zeev Shlomo ben Zecharia Leib*

COUNTING OUR BLESSINGS

by Rabbi Reuven Lauffer

THE AMIDAH (PART 2) — BIRKAT HA'AVOT

"Prayer is not a miracle. It is a tool, man's paintbrush in the art of life. Prayer is man's weapon to defend himself in the struggle of life. It is a reality. A fact of life."
(Rabbi Avrohom Chaim Feuer)

The Amidah opens with the words, "Blessed are You, our G-d, and the G-d of our forefathers; the G-d of Avraham, the G-d of Yitzchak, and the G-d of Yaakov."

At first glance, the syntax of the opening sentence seems to be both repetitious and somewhat awkward. The Talmud states (*Brachot* 16b) that there were only ever three people who were given the title "*Avot*" (forefathers). Therefore, if G-d is the "G-d of our forefathers," He must be, by definition, the G-d of Avraham, Yitzchak and Yaakov. If so, it would seem more appropriate to either begin the *Amidah* with the statement that G-d is the "G-d of our forefathers," or to begin it with the declaration that G-d is the G-d of Avraham, Yitzchak and Yaakov. And, yet, the *Amidah* commences with *both* descriptions. More than that, the *Amidah* stresses the fact that G-d is "the G-d of Avraham, the G-d of Yitzchak, and the G-d of Yaakov." The repetition of G-d's Name appears to be unwarranted. After all, Avraham, Yitzchak and Yaakov all worshiped the same G-d. So, why does the *Amidah* repeat "the G-d of" for each one of the forefathers?

Rabbi Elya (Eliyahu) Lopian (1876-1970) was one of the most influential spiritual role models and scholars of the twentieth century. Many of his lectures and writings were published after his passing under the title *Lev Eliyahu*, and his ethical and moral teachings are deemed indispensable to anyone trying to lead a life on a higher spiritual plane. Rabbi Lopian explains that each of the forefathers had a completely different approach to serving G-d. Consequently, it was the duty of each one of them to utilize his own distinctive strengths to reveal to the world how to believe in the theology of monotheism and live accordingly. Avraham's overwhelming trait was *chesed* — kind deeds. Yitzchak's principal attribute was being focused on the spiritual realms. And Yaakov's primary characteristic was to reveal to the world G-d's attribute of absolute truth. All three of these qualities are fundamental and vital to our connection to G-d. When combined together, they define the infinite chain that is the Jewish nation. This explains why the phrase "the G-d of" is used in conjunction with each forefather. It reinforces the fact that each one introduced his own distinct approach to serving G-d.

Furthermore, if the Men of the Great Assembly had simply used the collective phrase "the G-d of Avraham, Yitzchak and Yaakov," one might have the mistaken impression that it was Avraham alone who "discovered" G-d through his investigations of the natural world. And one might have mistakenly thought that after Avraham reached the conclusion that there is One G-d who creates and sustains everything, he then passed on his knowledge to Yitzchak and Yaakov — thus essentially removing their need to originate their own personal methods for serving G-d based on their unique personalities. But that would not be correct. They are not a "joint package." Rather, each of the forefathers is considered an equal partner in establishing the multi-faceted approach to serving G-d.

Presenting a slightly different approach, Rabbeinu Yonah points out that the forefathers are introduced at the onset of the *Amidah* to emphasize that we are far-removed from their exalted spiritual levels. Yet, despite our spiritual deficiencies, we too are capable of bonding together with G-d, building the most

rewarding and significant relationship that can possibly exist.

Rabbi Simcha Zissel Ziv Broida notes that the era of the forefathers preceded the Giving of the Torah. Their relationship with G-d was not formed with their acceptance of the Torah, due to the revelation on Mount Sinai. Rather, it was founded on their intense desire to identify the Ultimate Source of the astonishingly complex and beautiful world that they lived in. And they succeeded in doing so without the assistance of the purity and perfection of the Torah. Prior to Sinai, the physical world was the vehicle the forefathers used to reach the clarity needed to recognize G-d's Majesty in the world. As we begin the *Amidah* we invoke the forefathers to remind us that we too must strive to find G-d in every detail of the creation.

Rabbi Shimshon of Ostropoli (1599-1648), a brilliant Kabbalist renowned throughout the Jewish world for his piety, offers a fascinating insight on this topic. The number of letters in the Hebrew names of Avraham, Yitzchak and Yaakov is thirteen, which is the numerical value of the word *echad* — one. It was the forefathers who introduced the concept of monotheism to the world. Therefore, it is fitting that the total number of letters of their combined names should spell out the very essence of G-d — *Echad*.

To be continued...

TALMUD TIPS

by Rabbi Moshe Newman

Mo'ed Katan 2-8

One Simcha at a Time

The mishna says, "One is not permitted to marry on Chol Hamo'ed... because it is a simcha (happy event)."

The *gemara* is immediately amazed with this teaching in our *mishna*. Why should *simcha* be a reason for not allowing marriages during the Chol Hamo'ed days of Pesach and Succot? As Rashi explains the *gemara's* question in a rhetorical manner: "Is *simcha* forbidden during Yom Tov?!"

Four answers are offered in the *gemara* as the reason for this ban. Rav Yehuda said in the name Shmuel, "Because one is not allowed to mix one *simcha* with another *simcha*." This means that the *simcha* of the Festival should not coincide with the *simcha* of a new marriage. Rashi explains that the reason for this "separation of *simchas*" is to be able to rejoice solely on the mitzvah of *simcha* during the days of the Festival.

Rabbah bar Rav Huna gave a second reason: "Because a person would abandon the *simcha* of the Festival and become involved entirely with the *simcha* of the new marriage." If marriage during the Festival would be permitted, it is possible or probable that the mitzvah of *simcha* associated with the Festival would not be fulfilled.

A third explanation of our *mishna* is offered by the Sage Ulla. He said that marriage is not permitted on Chol Hamo'ed "because of the bother." Rashi explains what this means. If a wedding would be permitted during the Festival, a person might "bother" with the great toil of the wedding preparations during these days of Chol Hamo'ed, thereby transgressing their sanctity. As I once heard from a wise person, "Many may not realize that Chol Hamo'ed is less '*chol*' and more '*mo'ed*'."

Ulla's reason of "bother" seems to differ from the explanation in the *mishna* that "marriage is a *simcha*."

Tosefot explains the *mishna* to mean that due to the *simcha* of the wedding, a person might wrongly do too much in preparation and thereby violate the laws of the Festival.

A fourth and final reason is suggested by Rabbi Yitzchak Nafcha: "Because it would nullify being fruitful and multiplying." Rashi explains this terse and cryptic statement. If allowed to marry during Chol Hamo'ed, a person would be tempted to delay marriage until the Festival and not marry sooner if possible. The incentive for waiting for the Festival would be to combine the special wedding meal with joyous Festival meal. I have heard that in the previous century, due to their great poverty it was the custom of many residents of Jerusalem marry on Friday in order to combine the wedding meal with the Shabbat meal.

The first explanation of not mixing *simchas* is the answer cited by halachic authorities. (Shulchan Aruch, Even Ha'ezer 62:2) A precedent for not mixing *simchas* is noted in our *gemara*, in relation to when Shlomo Hamelech inaugurated the First Beit Hamikdash. He led the Jewish People in a great celebration during the days immediately leading up to Succot (See Melachim I 8:65) He did not delay the inauguration ceremony until Succot to take place at the same time as the Festival, since he would not mix one *simcha* with another.

Permit me to conclude with a personal anecdote. Many years ago, a friend studied with me an entire *masechta* on Shavuot night, when many have the custom to learn Torah until morning prayers. We were interesting in making a *siyum* after the prayers, but were concerned that we might be in violation of the ban against mixing one *simcha* with another. We asked a Rav. He told us that it is not mixing two *simchas* since the *simcha* of the *siyum* and the *simcha* of Shavuot are the same — the *simcha* of the Torah. He nevertheless requested that we make only a brief *siyum* with some cake and drinks since people were certainly looking forward to a nap after the all-nighter of Torah study, followed by the special Yom Tov prayers and our *siyum*. I hope it was short enough. We tried…

- *Mo'ed Katan 8b*

PARSHA OVERVIEW

The Jewish People receive a series of laws concerning social justice. Topics include: Proper treatment of Jewish servants; a husband's obligations to his wife; penalties for hitting people and for cursing parents, judges, and leaders; financial responsibilities for damaging people or their property, either by oneself or by one's animate or inanimate property, or by pitfalls that one created; payments for theft; not returning an object that one accepted responsibility to guard; the right to self-defense of a person being robbed.

Other topics include: Prohibitions against seduction; witchcraft, bestiality and sacrifices to idols. The Torah warns us to treat the convert, widow and orphan with dignity, and to avoid lying. Usury is forbidden and the rights over collateral are limited. Payment of obligations to the Temple should not be delayed, and the Jewish People must be Holy, even concerning food. The Torah teaches the proper conduct for judges in court proceedings. The commandments of Shabbat and the Sabbatical year are outlined. Three times a year — for Pesach, Shavuot and Succot — we are to come to the Temple. The Torah concludes this listing of laws with a law of *kashrut* to not cook or mix meat and milk.

Insights based on the writings of Rav S.R. Hirsch by Rabbi Yosef Hershman

Social Justice

The Torah opens its discussion of social legislation with the law of the thief who must sell himself as a servant, and for good reason. From the "exception to a rule" we can learn a great deal about the rule.

This case of the thief is the sole instance in which the Torah imposes loss of freedom as a punishment. Apart from the occasional detention before trial, there is no such thing as a prison sentence in Jewish law. The only institution that resembles a prison sentence is this thief's servitude. But even here, his sentence hardly resembles punishment. He is to be placed with a family, and the law is careful to protect his dignity. Neither is he to be given degrading work, nor lesser provisions than the master of the household. He is treated as a brother, not an underling. The Torah also ensures that his family remains intact. They are not to suffer distress because of his offense and its consequences. If he is married, his wife and children join him, and their care is the master's responsibility. In depriving him of his freedom, and thus the ability to provide for his family, the Torah imposes that responsibility on those who benefit from his labor.

Prison sentences as we know them — with all of their attendant degradation and misery for the prisoner, his wife and his children — have no place in Torah.

But we still may ask: Why in this single case of the thief, does the Torah deprive him of freedom? A thief is liable for the value of the theft and a punitive fine, but he may be sold only if he does not have sufficient funds to pay the value of the theft, not for any statutory fine. In order for him to make this restitution, the law requires him to pay with his working capacity if he has no assets. Yet, in other cases where restitution is required for damage caused, this law does not apply — the offender does not lose his freedom in order to pay restitution. Why is the thief the exception?

Perhaps the reason is that the thief shows the most direct contempt for the idea of private property. Property ownership presupposes a level of public trust. If we cannot trust our neighbors, we could only "own" that which we could nail down. The thief, more than taking what is not his, undermines the public trust, the foundation of community. Other offenders who have damaged property are not required to forfeit their liberty to pay restitution, but because the thief has damaged this core value of society, he is required to pay with any means possible — even his very freedom.

His freedom is mortgaged only for six years; he goes free in the seventh. Six always represents the physical, material world, created in six days. Seven represents the spiritual, transcendent realm. The thief is to serve for six years, to rectify his having been sold to materialism, oblivious to the One above. By subordinating his physical existence for six years, he learns to recapture the element of the "seventh," and, having done so, is free to rejoin society. We are now confident that instead of breaching communal trust, he will contribute to it.

- *Sources: Commentary, Shemot 21:6*